DOCUMENT RESUME

ED 394 869 SO 025 707

AUTHOR Shultz, Wendy L.; And Others
TITLE "Reinventing Courts for the 21st Century": Designing a Vision Process. A Guidebook to Visioning and Future Thinking within the Court System.
INSTITUTION Hawaii Research Center for Futures Study, Honolulu.; Institute for Alternative Futures, Alexandria, VA.; National Center for State Courts, Denver, Colo.
SPONS AGENCY State Justice Inst., Alexandria, VA.
REPORT NO ISBN-0-89656-127-5
PUB DATE 93
CONTRACT SJI-91-041
NOTE 153p.
AVAILABLE FROM Institute for Alternative Futures, 100 North Pitt Street, Suite 235, Alexandria, VA 22314-3108.
PUB TYPE Reports - Descriptive (141)

EDRS PRICE MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS Court Role; Courts; *Futures (of Society); Higher Education; Institutions; Law Related Education; *Long Range Planning; *State Courts

ABSTRACT

Designed to facilitate effective planning by state courts for the future, this guidebook is the heart of the State Justice Institute's "Vision for the Courts" project. Its primary purpose is building state court capacity to draft clear, inspiring, and compelling descriptions of a "preferred future"--a future that its authors and proponents want to create. The guidebook introduces future thinking and vision development. It highlights the interaction between vision thinking and organizational morale, productivity, and creativity. The guidebook also outlines procedures for developing an effective vision workshop and methods to continue and expand vision development beyond a workshop. The book contains six appendices, providing sample materials for a vision workshop, quotations about visioning the future, reference to additional works on vision, and a list of participants from the Courts Vision Process Design Workshop. The educational community would find the issues raised by this guidebook useful in a law-related education setting. (LH)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED 394 869

Reinventing Courts for the 21st Century

Designing a Vision Process

a guidebook to visioning and futures thinking within the court system

S0025707

BEST COPY AVAILABLE

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☒ This document has been reproduced as received from the person or organization originating it.

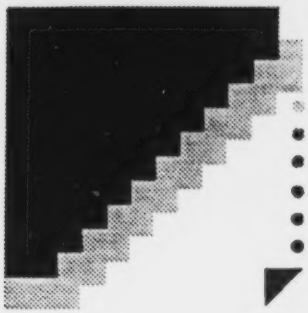
☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL IN OTHER THAN PAPER COPY HAS BEEN GRANTED BY

Kathleen L. Scott

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)



Reinventing Courts for the 21st Century

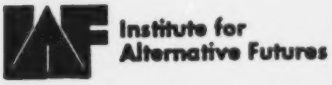
Designing a Vision Process

a guidebook to visioning and futures thinking within the court system

by

Wendy L. Schultz
Clement Bezold
Beatrice P. Monahan

This guidebook was prepared with the support of a grant from the State Justice Institute (SJI 91-041).
Points of view expressed herein are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute.



Hawaii Research Center for Futures Studies

Copyright 1993
Institute for Alternative Futures
Hawaii Research Center for Futures Studies
National Center for State Courts

(Portions Copyright, Institute for Alternative Futures,
used with permission)

Publication Number R-150
ISBN 0-89656-127-5

Project Staff

Clement Bezold, Ph.D
Executive Director
Institute for Alternative Futures

Wendy H. Schultz
Research Associate
Hawaii Research Center
for Futures Studies

Jim Dator
Director
Hawaii Research Center
for Futures Studies

Beatrice P. Monahan
Senior Planning Analyst
Supreme Court of Virginia

Bill Hewitt
Senior Reseach Associate
National Center for State Courts

Graphic Facilitator
Joan McIntosh

Video Production
Michael Babich
President
Tradewinds Video, Inc.

Table of Contents

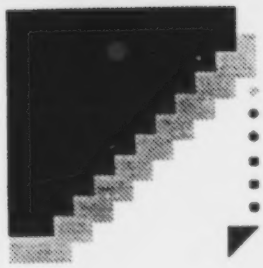
		Page
Preface		*vii*
I.	**Introduction to the Guidebook**	*1*
II.	**On Futures Thinking**	*7*
	Introduction	*9*
	Trends	*10*
	Trends and the Courts	*11*
	Scenarios	*13*
	Visions and Strategies	*16*
	Visioning in the Public Sector	*16*
	Visioning in the Private Sector	*17*
III.	**Creating the Vision: A Participatory Process**	*21*
	What a Vision Can Do	*23*
	What a Vision CanNOT Do	*24*
	Requirements for a Productive Vision	*24*
	Summary	*25*
IV.	**Designing a Vision Workshop**	*27*
	Vision Building in Brief	*29*
	Planning and Preparatory Concerns	*30*
	Workshop Process	*33*
	Designing Agendas: Time	*33*
	Getting Started	*35*
	Warm-ups	*36*
	Individual and Small Group Visions	*41*
	Initial Group Vision	*41*

Designing Agendas: Exercises 42
Warm-ups 42
Exploring New Frontiers 43
Vision Design 44
From Vision to Strategy 45
Identifying Vision Side Effects 45
Basic Skills: Facilitation/Recording 46
Fundamental Principles of Facilitation 48

V. Visioning and the Courts 51
State Court Interest in the Future 53
Setting the Stage: Providing Background on Your Court 54

VI. The Vision Process Beyond the Workshop 57
Resource Level 59
Types and Depth of Futures Research 60
Stakeholder Involvement 60
Outreach Strategy 60
Communicating and Disseminating the Vision 61
Strategy Development and Implementation 61

Appendices
A. Vision Workshop Design Worksheet/Sample Agendas 63
B. Collected Futures/Visioning Exercises 71
C. Examples of Court Descriptions: Florida and Oregon 133
D. Inspiring/Irreverent Quotes 143
E. Additional References/Resources 151
F. Vision Process Facilitators from the Courts 161



Preface

The late '80s saw increasing interest by the state courts in futures planning and foresight. Those courts that incorporated futures research into their planning process found vision development among the most useful of the futures tools. The State Justice Institute's "Vision for the Courts: A Capacity-building Project" emerged from the commitment of three organizations, the Institute for Alternative Futures (IAF), the Hawaii Research Center for Futures Studies (HRCFS), and the National Center for State Courts (NCSC), to pursue the best uses of vision tools for state courts. This project develops and applies those tools.

> *This is a great opportunity for our community . . . to talk about what . . . our justice system should become, not what it is. The future can be shaped by what we do today.*
>
> —CHIEF JUDGE JAMES R. CASE, Florida Sixth Circuit

Over the last year, the project team has developed and refined vision workshop training materials, held three pilot vision workshops, produced a 42-minute visioning video that supplements the written material, and conducted a training session on the vision process for court personnel. This guide to vision workshop design is the result of that year's work. Visioning a better future is a skill needed everywhere, but nowhere so much as in modern government. The pressures exerted by the increasing speed and magnitude of change are overburdening our governance systems. Creating a long-range vision is invaluable for setting priorities and allocating scarce resources, not only for government, but also for communities, organizations, and individuals.

> *[W]hat we do today can shape our future. Government organizations do not have to sit back and let what might happen simply happen. With your help, we can identify*

that vision of what we want our system to be and then define what we need to do to arrive there.

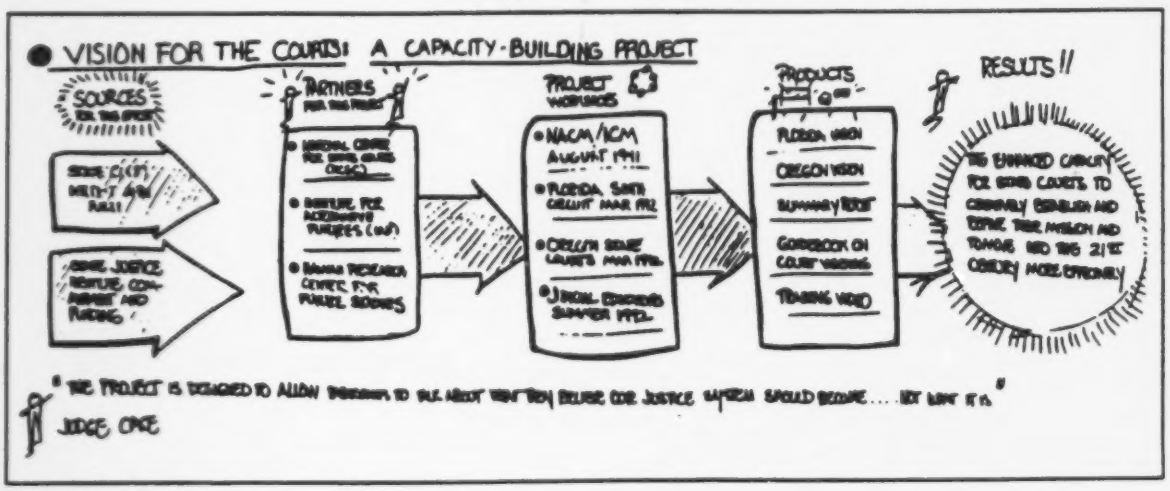
—CHIEF JUSTICE WALLACE CARSON, Oregon

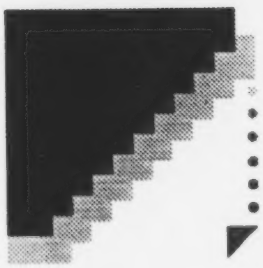
An adaptive and visionary state court system can set an example for the next millennium. The desire to create such court systems is at the heart of this project. Constructing compelling visions can be an ongoing part of court planning and administration. The conviction that foresight and visioning are important for the survival and vitality of America's judicial system created this text and the training workshop that accompanies it.

You imagine what you desire; you will what you imagine; and at last you create what you will.

—GEORGE BERNARD SHAW

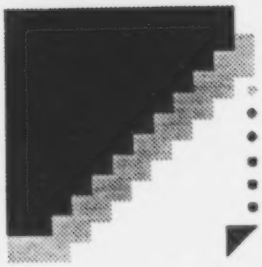
Project Road Map





Chapter I

Introduction to the Guidebook



Introduction to the Guidebook

A "vision statement" is a clear and inspiring description of a "preferred future"—a future that its authors and proponents most *want* to create. Designed to facilitate the vision development process, this guidebook is the heart of the State Justice Institute's "Vision for the Courts" project. Its primary purpose is building state court capacity to draft compelling vision statements.

In both the private and the public sectors, organizations throughout the United States and around the world are incorporating vision development into their planning processes. Developing an organizational vision demonstrably clarifies goals, aids in setting priorities, and increases employee motivation. This project extends the benefits of this new and powerful tool to the state courts, enabling them to plan more effectively for the future.

Vision is part of the strategic management process. The Trial Court Performance Standards and measurement system, developed by the Commission on Trial Court Performance Standards, provide a tool for strategic management in the state courts.[1] The Standards contribute to four activities critical to strategic management:

- Creating a new vision of the fundamental responsibilities and processes of trial courts;
- Defining a strategic mission;
- Establishing objectives and performance targets; and
- Formulating, implementing, evaluating, and correcting strategies to achieve those objectives.

In this management approach, vision development is step one, preceding planning. A vision differs from a strategic plan as it is typically conceived, particularly in the corporate sector. Management consultant Michael Doyle has identified the following differences:[2]

1. Ingo Keilitz, *The Trial Court Performance Standards: A Strategic Management Tool*, The Court Manager (Vol. 6, No. 1, Winter 1991).

2. Michael Doyle, *Quest for Vision*, Association Management 29-33 (September 1990).

Strategic Plans

- Directional
- Linear
- Reaction to trends and competition
- Work forward to the future
- Have to know how to get there
- Completed plan
- Plan language
  —cool
  —rational
  —mind focused
  —bureaucratic

Visions

- End-state Oriented
- Holistic view/a snapshot
- Desire to create in the world
- Work backward from the future
- Unclear how to get there
- Dynamically incomplete
- Vision language
  —hot
  —heart/spirit
  —intuitive
  —poetic

Why is vision development critical for the courts? In response to ongoing fiscal pressures and a great deal of user and voter dissatisfaction, state and local governments are increasingly adopting a user focus, holding themselves more accountable, developing outcome or "success" measures to check accountability, and becoming more prevention oriented.[3] Courts are moving in these directions as well. The Trial Court Performance Standards are an example. In addition, courts are consciously using various futures research tools to deal with the changes confronting them, as well as to develop images of what they want to become.

Guidebook Contents

This guidebook serves (1) to introduce futures thinking and vision development; (2) to explain what a court vision process requires in the way of support, resources, and activities, so that you can design a workshop that suits your court environment; (3) to suggest ways in which you can set the context for your participants; and (4) to suggest how vision development might be incorporated into ongoing court planning and management activities. Thus, Chapter II introduces the basic perspectives and concepts of futures thinking and foresight: trends, scenarios, visions, and strategies. Among those four concepts, it highlights the development and use of vision. This chapter also includes a survey of how those ideas fit into public and private planning, decision making, and management.

Chapter III focuses on vision and its interaction with organizational morale, productivity, and creativity. It concludes with an overview of requirements for successful visioning.

Chapter IV begins by discussing advance planning and logistics for a vision workshop. The latter half of the chapter presents an overview of the workshop

3. David Osborne, *State Government in the 1990s*, in Governing with Vision: State Government Foresight in the 1990s (Clement Bezold and David Lauren Cook, eds., forthcoming, Council of Governor's Policy Advisors).

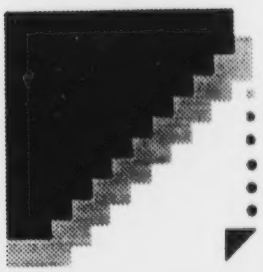
BEST COPY AVAILABLE

process, mapping out basic time allocation and facilitation requirements. It reviews several example agendas and a variety of exercises for the vision workshop itself. Appendix A contains three sample agendas; example exercise worksheets and their supporting information are available in Appendix B.

Chapter V suggests contextual information you might provide workshop participants to focus their thinking on the current structure of their courts and the critical issues they face. Many of the people you identify as stakeholders will come from outside the courts. A briefing on how their courts work and current descriptive statistics will help orient participants who are not with the court. This chapter also highlights some of the key issues facing the courts and how vision development can help courts cope with those issues.

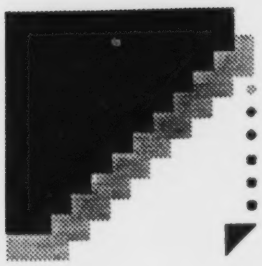
Chapter VI, "The Vision Process Beyond the Workshop," discusses various ways and means to continue vision development, expanding the process and linking it to planning and management.

The Appendices provide more-detailed information. As already mentioned, Appendix A contains sample agendas and Appendix B an array of vision workshop exercises. Appendix C offers examples of the contextual essays provided for participants in the Florida Sixth Judicial Circuit and Oregon State Courts vision workshops. For inspiration's sake, Appendix D presents a variety of quotes apposite to visioning, creating the future, innovating, and leadership. Appendix E provides references to additional works on vision, building scenario and vision, leadership, group process, court planning, future thinking, and video resources. Finally, Appendix F contains a list of participants from the Courts Vision Process Design Workshop. These individuals from the courts have been trained in the vision design process and are willing to serve as resources for other courts undertaking a vision workshop.



Chapter II

On Futures Thinking



On Futures Thinking

Introduction

Dealing imaginatively and effectively with the future is critical—but it is seldom easy. Futurists, decision makers, and planners have developed a range of techniques to deal with the future. These approaches blend rigor and logic with imagination. Imagination is by necessity a foundation of futures research—**there are no future facts.**

What information we do have about the future comes from our records of the past, our observations of the present, and our imaginative ability to ask, "what if?" At base, these are the three key components of futures thinking. Looking at the past, we can identify cycles of events: seasons, sunspot activities, El Nino oscillations, elections, coronations, couturier's hemline lengths. We can study "wild-card" events: watersheds in history that have restructured political, economic, or social systems. What analogous situations exist in the present, or might occur in the next millennium?

Today's sophisticated data-gathering and -processing systems allow us to compile observations of the world with astonishing speed and precision, which enhances our ability to spot historical cycles and to identify and monitor trends. As a species, we are immensely adaptive and innovative—and our innovations open doors of opportunity while at the same time closing doors on past habits and behaviors. Keeping an eye on inventions and technological innovations, value shifts, even fashions and fads allows us to spot emerging issues that might initiate changes for the future.

We have enhanced not only our ability to observe and record the changing patterns of the world around us, but also our ability to analyze those patterns. Economists, market researchers, systems analysts, survey researchers, historians, and futurists, among others, all have techniques to extrapolate outcomes from observed patterns of change. Whether quantitatively or qualitatively derived, we refer to these expressions of possible outcomes as **scenarios**. A scenario may be as simply expressed as the top line on a graph of economic growth, or as elaborately fleshed out as a science-fiction

novel. But at base, it is an attempt to suggest what a possible future might be—given certain assumptions.

Scenarios of possible futures are one category of answers to the question, "what if?" Scenario writing, as a discipline, has its own set of rules, chief of which is *internal consistency*. Achieving this requires that imagination be harnessed to logical rigor: the flight of fancy launched by asking "what if?" must follow a plausible path. Scenarios combine our fund of observations about the past and the present, our hypotheses about the laws of nature and society, and our creative imperative to expand our mental horizons.

But another category of answers exists for the question, "what if?" These answers come from our hearts. What if anything were possible? *What would we want for the future?* Creating an image of our preferred future is **visioning**. When a vision is created with conscious understanding of the possibilities with which it must contend, it can prove a powerful tool for strategic planning and personal motivation.

It is also critical for negotiation: everyone makes decisions based on vision, on their idea of a preferred future, even if that vision is never consciously articulated. While we cannot retrieve facts from the future, we can collect information on what the people around us think will happen in the future, and what they want to happen. Those opinions underlie individual and group choices and actions, including policy and operational decisions.

This chapter reviews in detail the concepts of **trends**, **scenarios**, and **vision**, giving examples of each and citing their applicability in both the public and private sector. But before describing these concepts, two assumptions bear emphasis:

> ***The future is uncertain.*** *There is no single, certain forecast for the courts. While we and the organizations we work for would like to eliminate this uncertainty, we must work to live with it effectively and creatively. Understanding trends and scenarios gives us a sense of the patterns of opportunities and threats, thereby enhancing our potential effectiveness and creativity.*

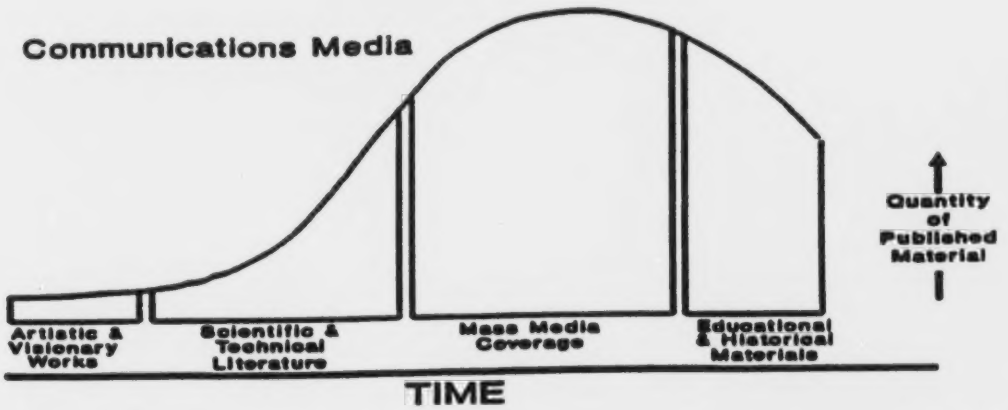
> ***While the future is uncertain and much of it is beyond our control, we can control many aspects of it.*** *We choose our future: we create it by what we do or fail to do. Visions and strategies linked to a clear sense of trends and scenarios make us better able to shape the future we prefer.*

All these concepts are highlighted in the video designed to accompany this workbook, "Envisioning Justice: Reinventing Courts for the 21st Century." The video not only illustrates the relationship of these concepts to each other, it also illustrates current uses of visioning and its possible role in court planning.

Trends

While the future is uncertain, there are some areas where trends can expectedly

Figure 1
Emergence of an Issue



be forecast. Demographics is one of these. We know roughly how many people there will be in the United States in the year 2000. Other areas, such as technology or ecological conditions can be forecast, but are more difficult to estimate with as much certainty as population forecasts.

A trend is a pattern of change over time in something of importance for the observer. Figure 1 illustrates the evolution of a trend into an issue (a trend to which greater attention is given and, in most cases, on which action is taken). An issue emerges over time. Once it has emerged it can be discerned from scanning the mass media. However, trends are described and issues hinted at years earlier in trade or scientific media. And even before that, artistic or visionary thinkers will have explored the potential of the ideas or forces that make up the trend. Thus, in the early 1960s pollution was seldom thought to be a problem. Rachel Carson had a different perception and wrote *The Silent Spring*. By the late 1980s, environmental trends, both problems and solutions, had fully emerged as an issue.

What is important about this curve is that more control can be exercised on an issue before it fully emerges, at the lower points on the curve. Techniques for early identification do exist. One is environmental scanning, a systematic approach to identifying trends and emerging issues well in advance: researchers monitor and analyze the content of a wide range of media sources, particularly from social fringe groups, for signs of value shifts and technological innovations. When organizations first begin environmental scanning, however, they, like most individuals, tend to focus on the most visible trends, "the top of the curve" in Figure 1.

Trends and the Courts

Typically, when asked what key trends are shaping the courts, people list trends that have fully matured. For example, many of the entries on the two lists on page 81

(Appendix B) would fall at the top of the curve in Figure 1. One major study of court trends by Franklin Zweig produced similar lists. One of that project's participants noted that most experts from the court community were "looking into the future through a rearview mirror."[1]

Thus, environmental scanning must move farther into the future, or "lower down the curve" in Figure 1, so that the courts may more easily influence trends that have not fully emerged. By looking out farther and anticipating the opportunities or threats that trends might pose, the courts will have greater leverage in shaping their own future. Looking farther into the future requires greater tolerance of ambiguity and uncertainty, yet provides more opportunity for creative development.

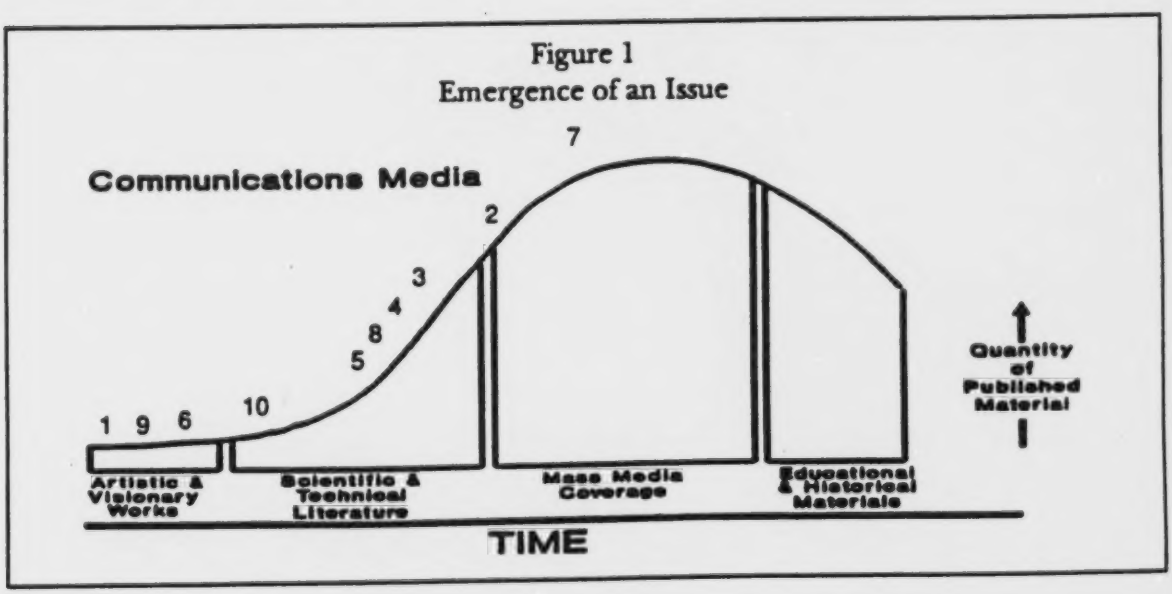
1. Franklin M. Zweig, et al., *Securing the Future for America's State Courts*, in The Future and the Courts Conference: Alternative Futures for the State Courts of 2020, at 151-52 (1991).

For example, trends have been identified that could alter radically what the courts might become by the early 21st century. Based on discussions of longer-term trends, project staff developed the following list of trends that are likely to make courts different:

1 Expert Systems
2 Alternative Dispute Resolution
3 Total Quality Management
4 Leadership Development
5 Litigation Prevention Strategies for the Courts
6 The Holographic Courthouse
7 Alternative Sentencing and Correction Techniques
8 Trial Court Performance Standards
9 Reversing the Emphasis on Rights
10 The Emerging Power of Diversity

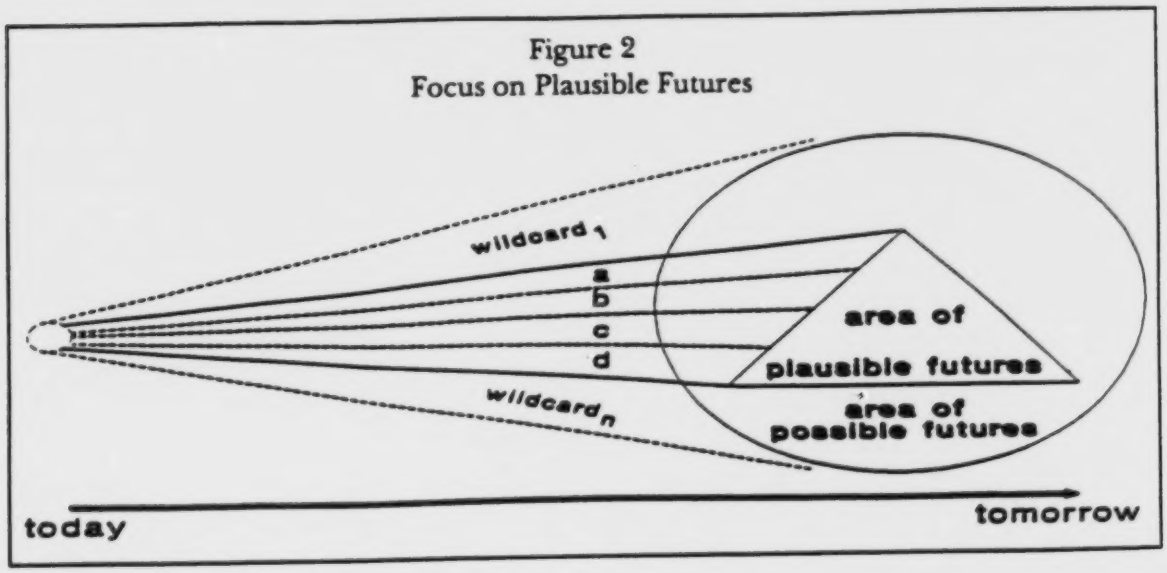
These trends, and their implications for the courts, are described in more detail in Appendix B. We have mapped for the courts the relative maturity of each of

Figure 1
Emergence of an Issue



BEST COPY AVAILABLE

Figure 2
Focus on Plausible Futures



these trends on Figure 1, which has been repeated below. Do you agree with our assessment of their maturity? Will they become common for the courts—that is, hit the top of the curve—sooner or later, or remain relatively obscure? What other trends do you think will be important over the long term in shaping the courts? It is important for you to have your own answers to these questions. Courts are often unprepared when the future arrives because they have not done this type of thinking.

Scenarios

Trends deal with the change of specific topics over time, e.g., the drug problem, an aspect of technology, or the pattern in specific types of cases. **Scenarios are compilations of trends that present differing images of the future.**

Because the future is uncertain, no single scenario of what might happen sufficiently reflects the actual range of possibilities. A single scenario is inadequate to temper prototype plans or programs. Therefore, futures researchers develop a range of plausible scenarios for use in strategic and contingency planning.

Figure 2 illustrates the role of a range of plausible scenarios. Four scenarios, A through D, represent four plausible paths the future might take. The triangle they define, labeled *area of plausible futures*, is the space that the state courts might occupy. There is a wider space, the circle in the figure labeled *area of possible futures*, which is driven by a variety of "wildcards," which are typically low-probability but high-impact events.

Most planning efforts do well if they expand their focus and deal with the triangle defined by the more plausible futures. However, a sense of what type of wildcards might arise is useful. The destruction of the Berlin Wall and free elections in Eastern Europe in 1989 and 1990 should alert us to dramatic, seem-

ingly implausible change— whether this high degree of change is built into the plausible scenarios or left as a wildcard. For state courts it is relevant to ask what events would be as surprising and significant as the fall of the Berlin Wall—or the breakup of the Soviet state.

Typically, a set of plausible futures will include three types of scenarios:

- one which represents an **optimistic extrapolation of the present.** This is the future that most government and business decision making assumes, explicitly or implicitly, will occur. Yet it is the one future most likely over ten or more years to be wrong— in the long run the future is more different, there is more change, than we typically expect.

- one or more **negative images**. A broad array of things that could go wrong is developed. From these, some are chosen to create a scenario. This is important for many organizations because of a tendency to ignore negative possibilities.

- one or more which are **structurally different, which challenge the assumptions underlying the current perception of reality of the organization.**

In addition to these differences by type (optimistic and extrapolative; negative or pessimistic; structurally different), scenarios can be differentiated by the level on which they focus. The levels include:

- the larger societal environment, **macroscenarios.**

- the operating environment for the organization, **operating environment scenarios**, e.g., focusing on crime, law enforcement, judicial operations, and government financing.

- the organization itself, **organizational scenarios**, e.g., the future structure, organization, and activities of a specific court.

Macroscenarios present images of the larger environment, usually at the level of society, for the topic under consideration. Among futurists the late Herman Kahn, author of *The Coming Boom*, sees an optimistic extrapolation of current trends. Many environmentalists and some economists provide scenarios that describe how "things bog down." These include prolonged economic recession, depression, or collapse; or environmental catastrophes on a regional or global basis. Futurist Alvin Toffler, in *The Third Wave*, presents another optimistic image of society's future. Toffler argues that we are undergoing a change in civilization. Our western, industrial civilization will evolve into a more diverse, sensitive (environmentally and socially), demassified culture with advanced technologies, and major changes in scientific paradigms and the structure of the economic system, by the first part of the next century.

Figure 3
Macroscenarios: United States

Elements \ Scenarios	Continued Growth	Things Bog Down	Controlled Society	Third Wave
Demographics and Values				
Technology				
Economy				
Ecology		The future of state courts will be shaped by changes in the larger society. Macroscenarios explore a plausible range of changes in key aspects of society, such as demographics and values, the economy, and technology.		
Politics				

Figure 4
Operating Environment Scenarios

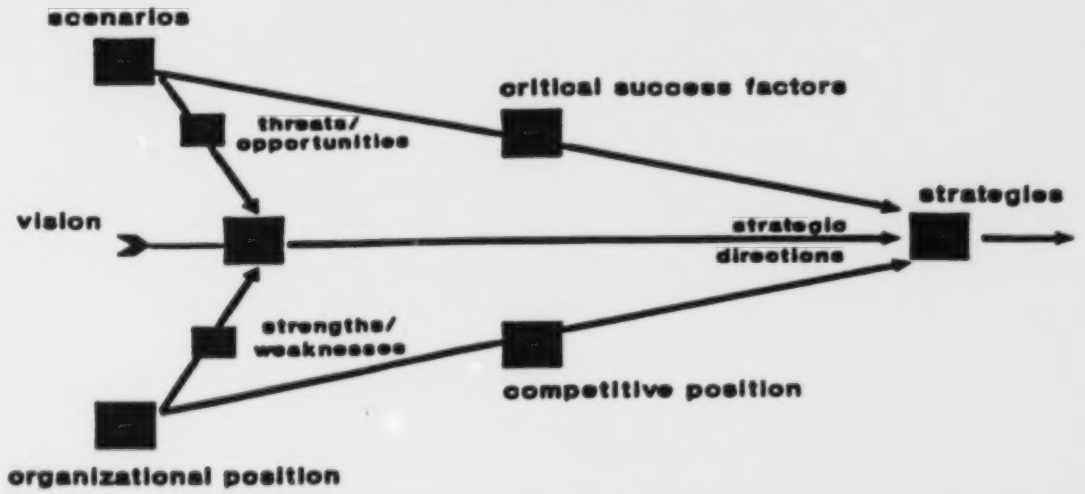
Sample elements \ Scenarios	Scenario A	Scenario B	Scenario C	Scenario D
Demand for Justice Services				
Drug-related Issues in Court				
ADR Status				
State Justice Financing		Scenarios of the "Operating Environment" and of the "organization" of state courts themselves explore changes in key elements, such as the demand for judicial services, justice-related technologies, etc., as well as the potential responses by the courts.		
Technology				

Figure 3 suggests how the key elements of a set of macroscenarios can be compared in a matrix. Similar matrices would typically be developed for operating environmental or organizational scenarios. Figure 4 portrays how scenarios can array the court's operating environment.

The Alternative Futures Exercise I (see Appendix B, page 90) uses four court scenarios, which focus primarily on the operating environment for the courts. These scenarios were developed in workshops at the SJI San Antonio Conference on the Future and the Courts. The matrix,

BEST COPY AVAILABLE

Figure 5
The Role of Vision



which describes these four scenarios in brief, illustrates a completed alternative futures comparison.

Visions and Strategies

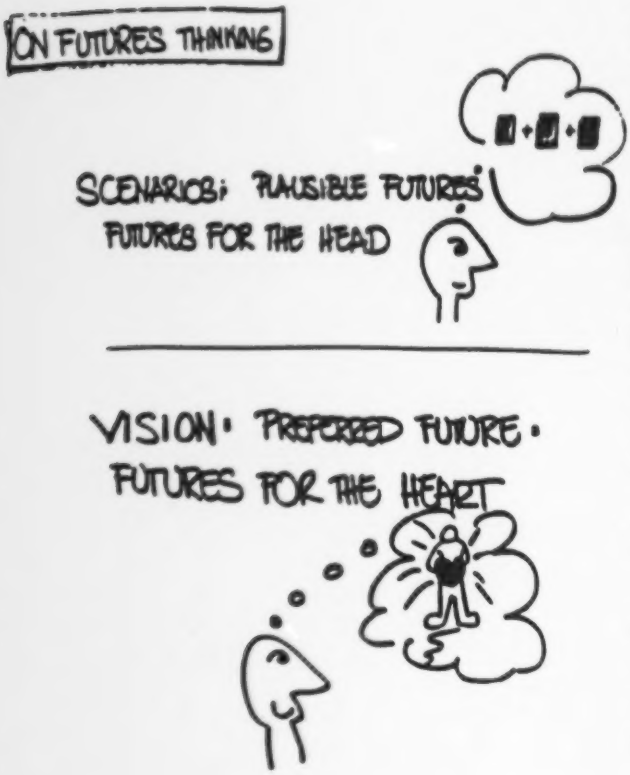
We think about what "might happen" (plausible futures) so we can shape what we "want to happen." If we can articulate our goals clearly enough, we will be better able to invent and create the future we most desire (our preferred future). A preferred future encompasses our ideals: it describes the best that *might* be.

A vision is a compelling statement of the preferred future that those who develop and subscribe to it want to create. Visions are "futures for the heart"—they touch and move us.

In contrast, scenarios are "futures for the head"—they provide information, identify opportunities and threats, and stretch our imagination. Figure 5 portrays the relationship between scenarios, visions, and strategies. Threats and opportunities within the external environment (the top half of Figure 5), best summarized in scenarios, affect vision design and implementation. Factors internal to the organization, its strengths and weaknesses and its competitive position (bottom half of Figure 5), also affect vision design and implementation. Incorporating these considerations, the vision is made as inspiring as possible, and then drives goal formulation and strategy design.

Visioning in the Public Sector

In the 1980s the two major advances in planning were the use of scenarios and the use of visions. Scenarios increase flexibility in the face of an uncertain future. Visions inspire by stating why we



do what we do, what higher contribution flows from our efforts, and what we can strive to become.

In some ways the public sector has been ahead of the private sector in using futures techniques. State and local governments have been using futures techniques more actively in a variety of ways, including futures commissions, environmental scanning, developing scenarios, and involving the public in debating the longer-term future.[2] A major advance in the late 1980s among these futures efforts was the more explicit focus on visions rather than simply goals, as had been the case in the 1970s and early 1980s.

Because of their public service role, governments' ability to develop compelling statements about a preferred future should be greater than that of the private sector. Ironically, the private sector identified vision development as a key component to growth and a successful service orientation earlier than did the public sector.

Visioning in the Private Sector

One reason why vision development has taken off more rapidly in the business sector is the promotion of vision processes in the business literature. The authors of the best-respected literature on leadership and strategy in business reinforce the importance of visioning.

Peters and Waterman in their research on excellent companies found that those companies that had a strategic vision that was communicated to their employees could tap a higher level of productivity from employees because it touched their hearts.[3] Waterman, in his book *The Renewal Factor*, argues that "one of the most difficult challenges in management is developing a sense of value and vision ... by finding a way to give the organization a sense of pride."[4]

2. Clement Bezold, Anticipatory Democracy: People in the Politics of the Future (1978); and Clement Bezold, *Beyond Technocracy: Anticipatory Democracy in Government and the Marketplace*, in Citizen Participation in Public Decision Making (Jack DeSario and Stuart Langton, eds. 1987).

3. Tom Peters and Robert Waterman, In Search of Excellence (1982).

4. Robert Waterman, The Renewal Factor (1987).

Burt Nanus in *The Leader's Edge* argues that the vision "should provide a shock of recognition that has the power and intensity to command attention, evoking resonating images in the receiver."[5] How can you do this? Nanus argues that leaders should:

> *[T]ry to make the vision relate to something familiar in the organizational culture. Be sure that it is credible and easily understood, optimistic, and ennobling. Remind people of the tough things that need doing and the reasons for them. Elevate their aspiration. Show them a brighter, more successful future for themselves if the organization achieves its vision. In the end, your vision must provide the spark that ignites their energies and empowers them to move forward together with you toward a shared purpose. (106)*

Likewise Rosabeth Moss Kanter in her book *The Change Masters* argues that "great companies make meaning."[6] Inspiring change can be difficult. "Most of the rational analytical tools (used by organizations) measure what already is. . . . But change efforts have to mobilize people around what is not yet known, not yet experienced." Kanter goes on to talk about the environment necessary for change:

> *Change masters are—literally—the right people in the right place at the right time. The right people are the ones with the ideas that move beyond the organization's established practice, ideas they can form into visions. The right places are the integrative environments that support innovation, encourage the building of coalitions and teams to support and implement visions. The right times are those moments in the flow of organizational history when it is possible to reconstruct reality on the basis of accumulated innovations to shape a more productive and successful future.*
>
> *The concepts and visions that drive change must be both inspiring and realistic, based on an assessment of that particular corporation's strengths and traditions. . . . All companies can create more of the internal conditions that empower people to carry out the search for those appropriate innovations. And in that search might lie the hope of the American economic future. (306) (Emphasis added.)*

Finally, Peter Senge in *The Fifth Discipline* emphasizes that for a vision statement to affect positive change, two conditions must be met.[7] First, the vision

5. Burt Nanus, The Leader's Edge: The Seven Keys to Leadership in a Turbulent World (1989).

6. Rosabeth Moss Kanter, The Change Masters (1983).

7. Peter M. Senge, The Fifth Discipline: The Art & Practice of the Learning Organization (1990).

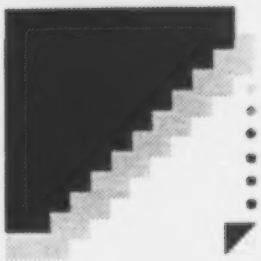
BEST COPY AVAILABLE

must be a *shared vision*, to which members of the organization are committed. They will stretch themselves and the organization to make it happen, creating the conditions necessary. Second, the organization members must in fact believe that they *can* make it happen; "vision becomes a living force only when people truly believe they can shape their future." (206)

> *A shared vision is not an idea. It is not even an important idea such as freedom. It is, rather, a force in people's hearts, a force of impressive power. It may be inspired by an idea, but once it goes further—if it is compelling enough to acquire the support of more than one person—then it is no longer an abstraction. It is palpable. People begin to see it as if it exists. Few, if any, forces in human affairs are as powerful as shared vision. (231)*

State courts have the benefit of learning the lessons from both public- and private-sector vision efforts.

BEST COPY AVAILABLE



Creating the Vision: A Participatory Process

What a Vision Can Do

Appendix E lists recent books and articles that represent some of the best work in leadership, motivation, and management—all the authors mentioned in the last chapter are represented. Each of them presents a slightly different case for the usefulness of vision, but all are convincing. When employees of dynamic, successful organizations and businesses discuss what makes their jobs exciting, they point to their own conviction that they are helping to make a community vision a reality. They know how their own job fits into the overall effort. They also know they will be given the latitude to expand their responsibilities if they see an opportunity to enhance progress toward the vision. This leads to higher levels of creativity and productivity on the job. How does an organizational or community vision accomplish this?

People want to believe in a better tomorrow; likewise, they want to believe that their individual efforts make a difference in creating that better world. The good news is, they do. People also try to enhance their sense of security regarding the future whenever possible. One way to do this is to work with people who share the same vision for the future. It is difficult to believe *one* person can affect history or change society; it is easier to believe an enthusiastic *group* of people can.

The trick, of course, is getting people to agree on the common vision. This may sound difficult for highly charged political arenas such as legal and judicial services. But the very nature of visioning itself establishes the future as a neutral arena, an open space onto which people can project their best hopes and worst fears—and acknowledge the hopes and fears of others. This process enables people to identify what hopes and fears they share and to agree to work on those. Finally, the group can "agree to disagree" on contentious issues and set them outside the community vision for negotiation or conflict resolution later.

Visions have been defined as long-term goals that touch the heart—they also unlock the door to personal achievement: in attempting to achieve the vision, people surpass what they thought were their personal limits, and recreate themselves as well as their community or orga-

nization. Visions raise people's aspirations and offer them challenges: visions provide everyone with an opportunity to be a hero somewhere along the line. Participatory planning centered on a vision assumes that everyone is important in creating the vision and acknowledges each individual's contributions. Thus, individual success is linked to group success; this is the link that multiplies productivity.

Creativity is enhanced by the link between the vision and daily problem solving. Defining your organization's shared purpose, its long-term goal, sets the parameters for day-to-day goals. Given a context for daily activities and a defined and measurable set of goals, management can decentralize, allowing employees the flexibility to respond creatively to assigned tasks secure in the knowledge that everyone knows how all the pieces must fit together to build the vision.

What a Vision CanNOT Do

Visions are not the panacea for organizational woes. They cannot remove deep-rooted organizational conflicts. As mentioned above, they can to some extent provide a neutral conceptual space in which people can consider the long-term importance of controversial issues. Sometimes just placing a controversy against the backdrop of changes possible in the next 30 years makes it moot. The exercise can help people redefine conflicts, which may at least lessen their intensity.

Nor can a vision tell hard-pressed administrators where to cut the budget. But they can help clarify the organization's priorities, and highlight where trade-offs might occur.

A vision cannot reveal what opportunities or challenges the outside world has in store over the next few decades: it is not a forecast of changing conditions. Nor can a vision immediately alter an organization's external environment. While organizational and community visions can transform the greater society, society has a great deal of inertia, and will be pushing back. In addition, the currents, eddies, and occasional flash floods of change also will alter people, organizations and communities, and their visions.

Requirements for a Productive Vision

The critical characteristic of vision resides in its relationship to change: in order to be effective, a vision must grow. A healthy vision is organic. It must adapt to a mutable external environment, and to the transformations it itself creates within the courts. The vision must have champions, heroes, community involvement, and renewal mechanisms to become reality.

Having a champion, or group of champions, who not only is enthusiastic about the vision itself but also supports the usefulness of the process, is critical. In the best of all possible worlds, at least one of these champions is either the top judicial officer, the court administrator or manager, or the court planner—ideally, all three (or however many your particular court comes equipped with) are vision champions, because, of course, the most useful characteristic of a champion is the

Chapter III

Creating the Vision: A Participatory Process

clout to allocate organizational resources in support of the vision. A champion's support for visioning as an ongoing process is also fundamental.

"Vision heroes" are those staff members, or entire units or divisions, who adopt the vision so enthusiastically that they make measurable strides toward attaining the vision. Their accomplishments should be celebrated, not only for the accomplishment itself, but also as continuous examples that the future can be created. To encourage the emergence of vision heroes, a working vision will require ongoing staff participation. This could be as elaborate as full-blown training in vision facilitation and foresight activities. Or staff participation may simply mean quarterly retreats, seminars, or brown bag lunches to revisit the vision, which also can serve as an introduction to visioning for new staff. Such sessions also could be an "open house" opportunity for other stakeholders in the organization and people from the local community.

Involving representatives from the community wherever possible provides valuable feedback not only during the initial visioning process, but also as part of a regular process of updating the vision. Community participation is one feedback link to environmental change. To monitor progress and consider possible course corrections, several other feedback loops also should be in place. One such loop would be an ongoing process to review the vision vis-à-vis community socioeconomic and demographic statistics, court statistics, client/user evaluations, and if possible, environmental scanning of emerging social issues and effects from innovations. Environmental scanning is a key component to comprehensive strategic planning based on a vision: spotting new trends early makes it much easier either to capitalize on them or to ameliorate them.

Perhaps the most important feedback loop is that between the vision and the planning and budgeting activities. If staff see the vision only as a pretty piece of prose displayed on the wall, their commitment to its achievement will waiver. The vision must be incorporated into an ongoing strategic planning process in such a way that it contributes to setting priorities for action and resource allocation. The vision leaders and champions need to demonstrate substantive commitment as well as verbal encouragement.

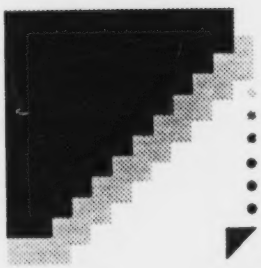
Keeping the vision alive and growing requires opportunities for vision renewal for participants at all levels. With normal staff turnover, new people will need to be brought on board, and new champions and vision heroes found to replace retiring supporters. These new voices will need an opportunity to interact with the vision and add to it, ensuring that new staff and stakeholders will have that opportunity almost automatically to update the vision.

Summary

Creating an organizational vision revitalizes the organization because it touches the hearts of the people in the organization, inspiring them to excel, and it helps generate organizational creativity and innovation. It is limited in its capacity to solve immediate budgetary problems,

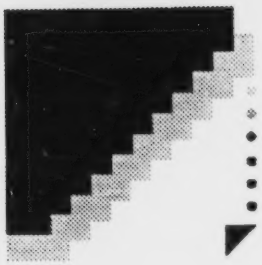
erase long-running conflicts, or exert immediate, far-reaching effects on the organization's external environment. In the short run, it only clarifies priorities and energizes activity; in the long run, it will contribute to addressing what seem to be intractable problems.

To ensure its success, a vision requires leadership and commitment, or what we have called champions and heroes. In order to adapt constantly to the changing world, and to incorporate new participants, a vision must be reviewed and renewed regularly. Finally, to fine tune the vision, measure its progress, and allocate resources to achieve it, the vision should be the cornerstone of the organization's planning and budgeting process.



Chapter IV

Designing a Vision Workshop



Designing a Vision Workshop

Vision Building in Brief

People generally work through five stages in building a vision: problem identification; past success; future desires; identification of measurable goals; and identification of resources to achieve those goals. The following paragraphs briefly describe each stage.

Problem identification often begins with a generalized feeling of dissatisfaction with the present, with the way things are. After dwelling on this dissatisfaction for a while, people are better able to enumerate the specific problems or issues that define it. It is cathartic to express and acknowledge the problems that bother us—this first stage of visioning is often referred to as the "catharsis exercise."

Second, people often judge dissatisfaction in relation to **past successes** or achievements. Something that once worked well, that once succeeded, no longer does: how do we fix it? What were we doing right then that somehow no longer applies to the situation, perhaps as a result of cumulative change? This also includes identifying what STILL works well. Reminding ourselves of our successes is useful for two reasons: (1) analyzing previous successes helps us figure out how to generate more success; and (2) identifying and enumerating critical problems can effectively immobilize us with despair; remembering that we have in the past effectively changed our environment and achieved our goals saves us from that.

Next we need to imagine how we would prefer things to be. Once we have acknowledged our current problems, worries, and constraints, and allowed them significant space within our group consciousness and on the wall notes of our group memory, we must grant ourselves permission to express freely our **future desires**, to imagine the best that we can for ourselves, our community, our court system, or our world.

This is often quite difficult for several reasons. First, we are trained by daily life and by our professions to be pragmatic, to focus on solving the current problem rather than setting the distant—and idealistic—goal. Second, most people have a genuinely difficult time imagining a truly different future. Third, "the fu-

ture" represents a very large conceptual space: we need to break it down into manageable bits.

Thus, it is a useful practice to look at scenarios of alternative futures and ask ourselves what our organization would look like given the assumptions of each different future, and what unique opportunities and constraints each alternative scenario offers. This gets us out of the present, lets us distance ourselves from our cares, and offers us a psychologically neutral space to ask "what if?" It also teaches us to imagine the future one detail at a time, to maintain internal consistency with the base assumptions of a scenario, and to push at the boundaries of the possible.

If time does not allow exploring possible alternative futures, it certainly is possible to move directly into the visioning process, given enough structure in the way of ground rules and cheat sheets—organized checklists of critical details our vision of a preferred future should contain. A positive vision for the future can emerge out of a reversal of assumptions; out of a metaphor, a poem, a song, a bumper sticker; out of two or three core values ("a world without weapons;" "life, liberty, and the pursuit of happiness"); or out of an individual's image of a perfect "day in the life."

Fourth, we must consider how our imagined, preferred state would work in practice: what are the details and specifics of the vision? This is the hard work of vision building. The previous phase emerges from our skill at fantasy; this stage must be more orderly, more logical, filling in the details of the vision to answer the basic questions any visitor to our preferred future might ask. What are all the necessary pieces, and how do they fit together? This stage is critical because each detail is, in effect, an implied **measurable goal**.

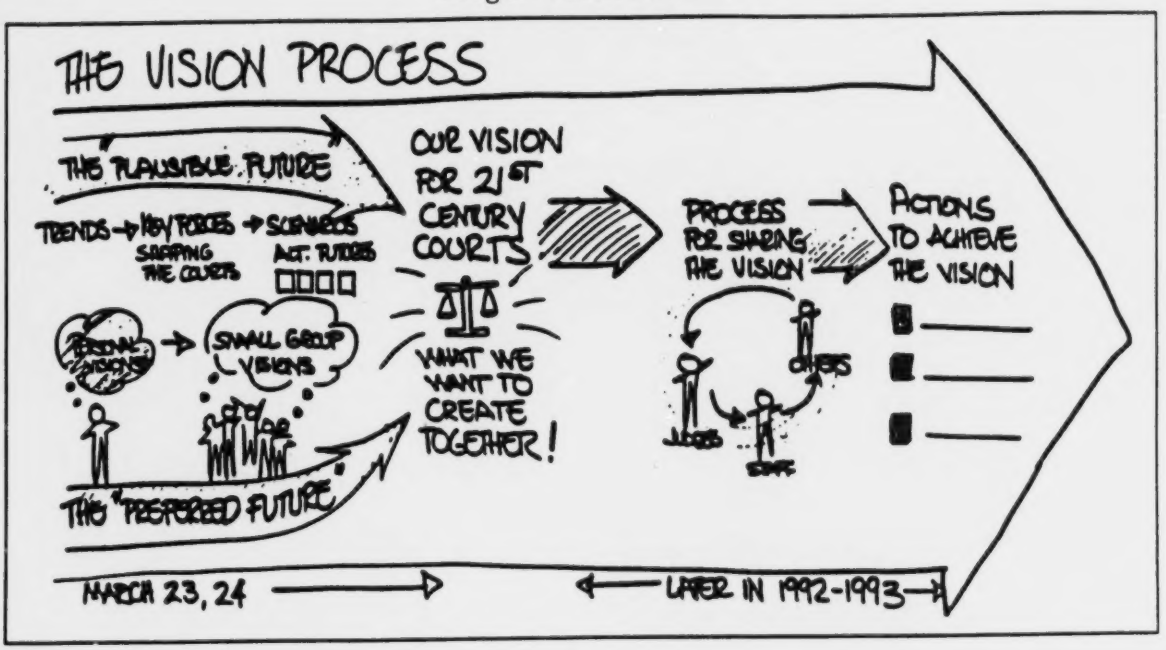
Fifth, in order to feel that we can actually create the vision we've imagined, we must define the next steps, describing the causal chain that links the vision to where we are now: show the path that will take us to our preferred future. These next steps are the basic components of strategic planning and will **identify the resources to achieve the goals**. What opportunities, analogies, or models do we have for building specific components of the vision? What constraints stand in the way of building those specific components? What resources and allies currently exist or can be marshaled to start building the vision?

The sketch "Oregon Vision Process" portrays the stages in the visioning process that the Oregon state courts chose to highlight: moving out of the present by considering key trends shaping today's courts; considering alternative futures to broaden their thinking about future possibilities; exploring individual and small group visions for Oregon's courts; assembling a draft vision for the courts; and working over the next year to share the vision, expand participation in refining it, and devise actions to achieve it.

Planning and Preparatory Concerns

The vision workshop generates creative and innovative ideas about your organization, to rediscover and redefine your organization's mission and purpose and

Oregon Vision Process



to generate enthusiasm and excitement in your staff, various stakeholders, and interested community participants. The vision workshop is best planned as the kick-off event in an ongoing visioning and planning effort after which you will expand and polish your vision and maintain that sense of excitement.

The following paragraphs provide an initial guide to planning and preparing for a vision workshop. As an aid to jotting down initial ideas and notes, Appendix A provides a two-page Vision Workshop Design Worksheet. This worksheet guides thinking about the following logistical necessities and also assists you to think out the agenda and to list the exercises and materials you want to use.

Goals/Expectations. Begin planning your vision workshop by reviewing your goals and expectations for the workshop. Limit them to a manageable size: a one- or two-day workshop will establish a firm foundation for your vision, but will most probably not complete it. The vision itself will not solve immediate crises—although it may contribute to their solution—but it will guide your intermediate and long-range planning efforts.

Leader/Champion. Enlist the aid of the highest-ranking person (chief justice, state court administrator, presiding judge, trial court administrator, etc.) you can find to spearhead the planning effort, to encourage participation and commitment, and—most important—to legitimate the process. Most people are judged professionally by their ability to solve problems and handle crises. We are socialized from an early age to avoid daydreaming. Yet visioning is about the effective use of daydreams, and people will be more willing to let their repressed imaginations loose if they know their

supervisors not only approve, but plan on joining in. Request that your leader/champion draft an official letter of invitation that entreats people to get involved and to let their creative spirit flow.

Participation. Enlisting everyone's participation is critical, but generally not feasible in one workshop due to time, space, staff, and funding limitations. Remember that the vision process needs to be ongoing anyway; define the participant list for this first workshop in terms of who would most enthusiastically help disseminate the process to a wider circle of people. But do choose participants to maximize representation of different perspectives, different clientele and interest groups, and different levels of involvement in your court. This group should include present or future leaders of groups that will be key to achieving your vision. Cast your net wide in terms of staff, stakeholders, and the community at large. Later in the vision process you can always narrow your focus with small task forces or working groups.

Resources. A vision workshop does not have to eat up resources; again, the amount of time and money spent will depend upon your goals for the workshop. You can simply assemble a visioning group to meet every day at lunch for a week, rotate the responsibility to facilitate and record, and work through one exercise per day. That would cost your organization very little. If you wish to assemble a large group of people from all over your court, state, or the country, and, with the aid of professional facilitation, thoroughly discuss current crises, critical emerging issues, possible alternative futures, people's visions for positive change, goals, and allies, resources, and strategies to achieve those goals, the costs will increase accordingly.

The one resource that you must spend for successful visioning is time. Participatory visioning is staff time intensive. Ideally, "what if?" and "what would this look like if it were the best it could be?" should be questions that staff members ask themselves throughout each day. Futures thinking should become a way of doing work, an operating perspective, and not be an extraordinary process only for special events. But to get staff to that point, a round of vision activities, such as workshops, exercises, interactive processes, and training opportunities, is required. But you can start small; some suggestions on means to do that are offered in the section on workshop process.

However you choose to structure your process, to ensure that discussions are as productive as possible, the group as a whole should be led by a facilitator and/or recorder outside the process: if possible, use of a trained facilitation/recording team is recommended.

Logistics. The workshop itself will require at least one large room in which the whole group can meet. If the room is sufficiently large, working groups may stake claims to the four corners of the room; if a ballroom or auditorium is not available, then use four smaller rooms. The advantage to the larger room is the sense of camaraderie and cohesion the bustle of neighboring discussion engenders. The advantage to several small meeting rooms is the privacy and insulation from distraction.

In terms of supplies, each participant will need paper and pens to jot down ideas. Each working group will need one or two flipchart pads and one or two rainbow sets of water-color magic markers, as well as a supply of masking tape. In addition, each working group will use one four-foot by six-foot sheet of butcher paper to consolidate individual vision statements into a small-group vision statement. Full group discussions also will require flipchart pads, markers, and a four by ten or six by twelve-foot sheet of butcher paper to serve as the canvas for the group's synthesis vision statement.

If possible, coffee, tea, fruit juices, and soda should be supplied throughout the day (this is thirsty work), and lunch for the group as a whole. Providing lunch cuts down on the time required for lunch break—as no one needs to leave the premises—and also allows a chance for participants to discuss the proceedings in an informal way: some of the best ideas emerge from coffee and lunch breaks.

It is critical for workshop success that people feel relaxed, comfortable, and unfettered. Make sure that invitations stress casual clothes. Arrange your room, or rooms, so that people can move chairs and tables around if they feel like it. Whenever possible, encourage people to sit on the floors: encourage people to break out of the constraints of everyday perceptions and conventions. Participants should be encouraged to use first names to lessen the "hill of influence" during this process.

Depending on how far-flung your participants are, hotel reservations and transportation costs also may be required. In that case, arranging for meeting rooms in the hotel where most people will stay also cuts down on wasted time and increases the intensity of the experience: the immersion effect.

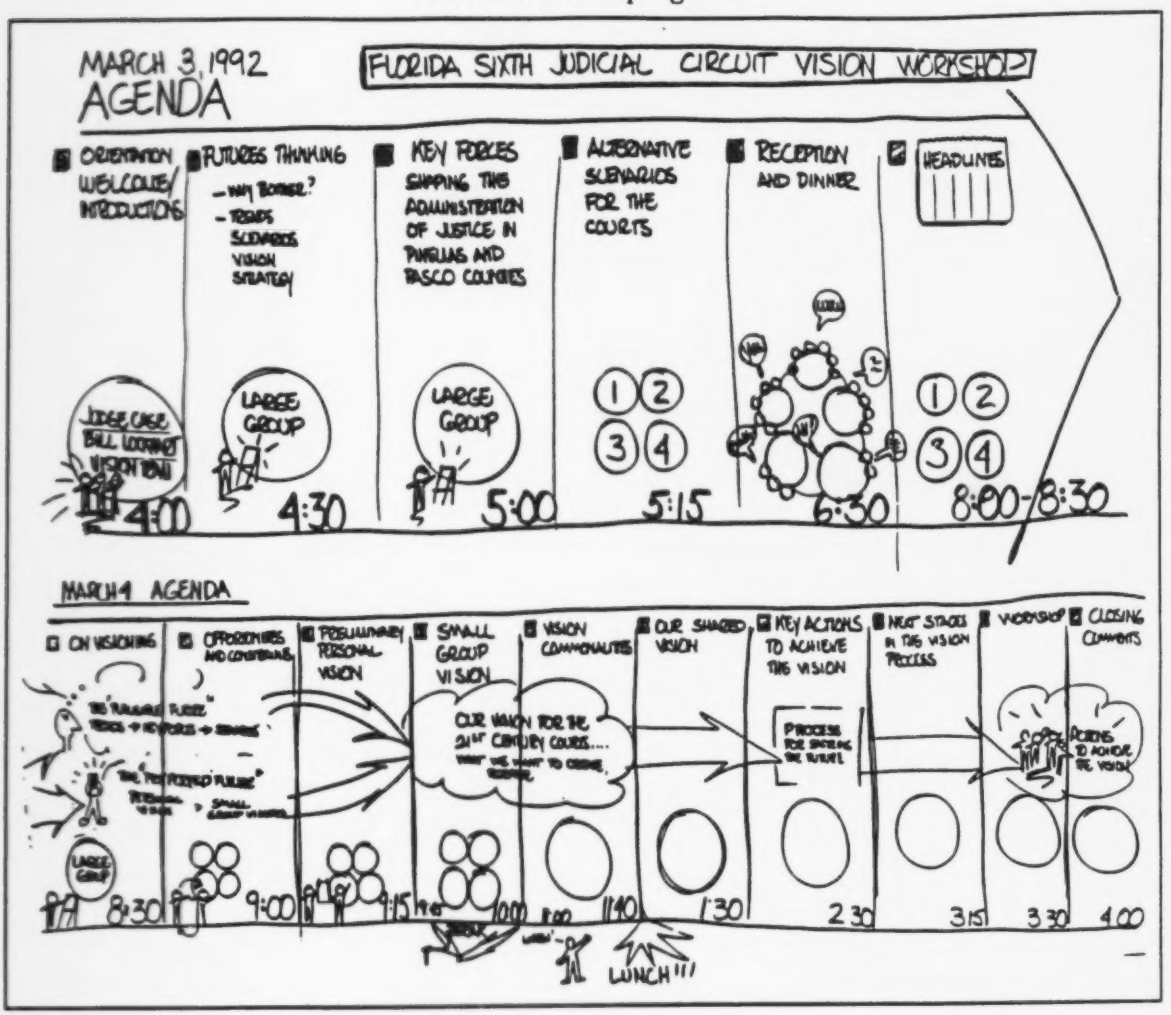
Workshop Process

Designing Agendas: Time

Vision workshops, like amoebas, may take many shapes. As mentioned previously, the group may get together on an informal basis to work through various futures-thinking and -visioning exercises, in which case the agenda would fragment and spread out over weeks. Modest, in-house efforts can be scheduled for half a day a week over four weeks. More-formal workshops can be arranged for a full working day, or over a weekend as a retreat. The possibilities will vary depending upon planning deadlines, goals, budget and participant needs, and constraints. Appendix A contains three sample agendas: (1) for one-and-a-half-hour sessions over four days; (2) for one day; and (3) for two days. The agenda for Florida's Sixth Judicial Circuit's Vision Workshop scheduled participation over an evening and the following day.

Agendas do have certain constants. Breaks and lunches (or dinners if you plan to work into the evening) are important. Schedule a 15-minute breather every two hours, and try to keep everyone together for meals. People need time to chat, debrief what they have just done, and recharge. If you begin early in the morning, allow at least a half-hour morn-

Florida Workshop Agenda



ing coffee/get-acquainted margin at the beginning of your schedule. This allows stragglers to blend in gracefully with early birds and gives everyone a chance to wake up completely.

Debriefing is another critical constant in the workshop process. If possible, try to build in 15- to 30-minute group reflection sessions after major segments of the workshop. This is particularly useful after the emerging issues/alternative scenarios segment and after the individual/small group visions segment. Begin debriefings by referring back to your list of people's expectations and the overall agenda; debriefings serve as a reality check on what people are getting out of the process and allow you to make course corrections before misunderstandings build up.

Around these constants, structure your workshop in line with the following time allocations. Introductions, purposes,

expectations, and ground rules; warm-up exercises; venturing out into different possible futures; and scheduled breaks should take about one-quarter of the time you have allotted, if your primary goal is creating a vision. (If your primary goal were strategic planning, you would want to spend about one-third of your time considering emerging issues, one-third on alternative possible scenarios, and one-third on visioning.) Of the rest of the workshop, about one-quarter will go to creating vision statements at the individual and small group level, one-quarter to melding the ideas that have emerged into an initial vision statement, critiquing and refining it, and one-quarter to discussing next steps, eliciting commitment, and debriefing.

Getting Started

To help participants get geared up for the work to be done, you may want to provide a brief advance reading assignment. Chapter II from this book or material selected from the resource list in Appendix E may be useful.

Whether you are rationing your workshop time over several days, have only an afternoon, or have the luxury of a full weekend, at least one hour in the beginning of the process must be devoted to general orientation, introductions, and expectations. This includes introducing the organizers, sponsors (if any), the facilitators, and recorders and reviewing the agenda. It is important that everyone understand why they are there and what is to be done. Next, let the participants introduce themselves and describe their role/connection with the court community. Use this time to elicit their expectations concerning the activities and outcomes of the workshop and to address any confusion. Record their expectations on flipchart sheets and post them on the wall for the duration of the workshop.

Oregon Guidelines for Participation

GUIDELINES FOR PARTICIPATION
* VISION IS NOT ABOUT WHAT IS...
SPEAK OF 2020 IN THE PRESENT TENSE
* DON'T BE NOFE*... BE WOT**
*NOT OUT FAR ENOUGH **WAY OUT THERE
* BE CREATIVE
* LISTEN ACTIVELY
* YES, AND....
* REMEMBER... THERE ARE NO WRONG ANSWERS
* KEEP IT SHORT... SHARE THE TIME
* HONOR THE 80/20 RULE!

Next, ask participants what ground rules they think would help keep the workshop on topic, on schedule, and help fulfill people's expectations. Record their suggestions and post them on the wall. Add in the ground rules the exercises require. The "Guidelines for Participation" from the Oregon workshop are a good example of ground rules for futures workshops.

In general, the rules for active listening and brainstorming apply to most of the activities of a vision workshop: listen to understand; listen as an ally; ask open-ended questions; encourage other participants in expressing their imaginations to the fullest; keep your own statements short and simple; say, "yes, and . . ." instead of "yes, but . . ."; don't challenge; and don't qualify. It is not possible to overemphasize the use of imagination, the need to take ideas to their logical and outrageous extremes, and the role of humor in a vision workshop. For this reason, participants should be encouraged frequently not to BE NOFE! (Not Out Far Enough), but to suspend their disbelief and BE WOT (Way Out There).

It is impossible to overemphasize the rewards of trying to visualize our dreams and express them graphically: in a futures workshop, everyone is an accomplished artist. From the start, participants should be encouraged to consider graphics as they conceptualize. Use of reactive graphics by the recorder will set the stage for subsequent graphic representations by participants during the exercises.

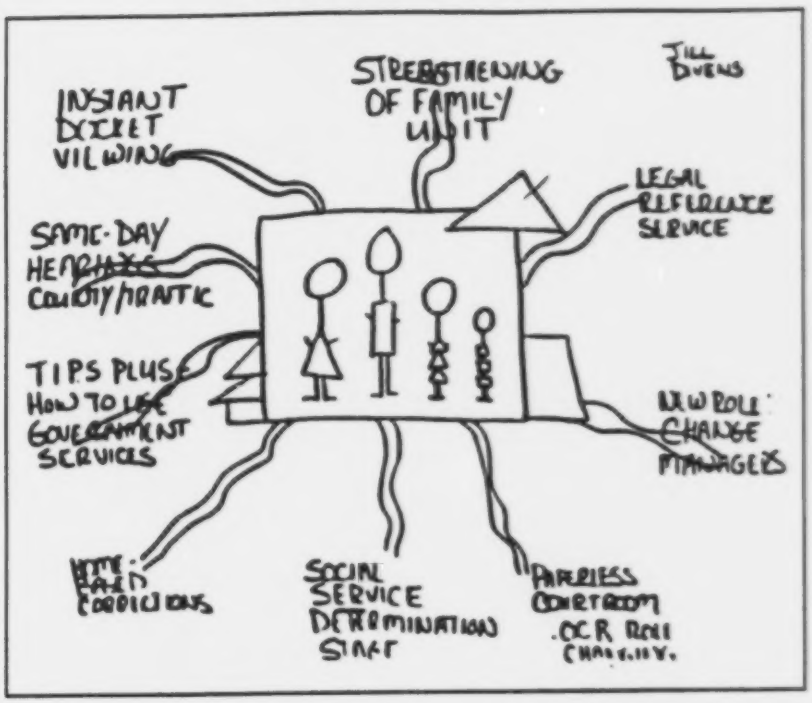
Warm-ups

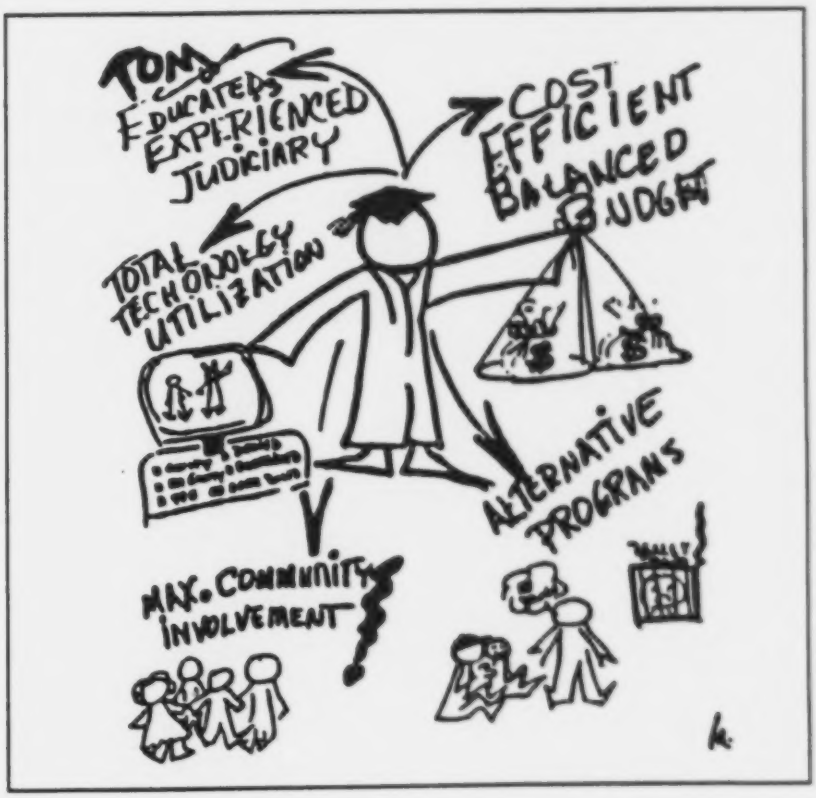
Switching from our ingrained emphasis on pragmatism to raving idealism stretches unaccustomed mental muscles, hence the need for warm-up exercises. Those that follow serve both as an entree to a futures-oriented perspective and as practice for basic group process and active listening skills. People also usually need both some contextual information and some practice in order to imagine the future as truly different from the present (the only "prediction" professional futures researchers will make). If your community boasts a local futures researcher, and you have time available in your workshop schedule, a 30- to 45-minute presentation on emerging trends of change and their possible effects on society, governance, the economy, and life-styles would be extremely useful.

If not, similar information can be gleaned from various futures research journals or books and disseminated ahead of time to participants. An example of a short, provocative piece to get people talking would be an alternative scenario for justice excerpted from a recent science fiction novel or a science fiction short story. Appendix E suggests possible works from science fiction that people might find interesting. Taking 30 to 45 minutes for a group discussion of the more startling or "way out" trends would serve the purpose. If time is short, try the two alternative futures exercises and their accompanying scenarios. These work to acquaint people with emerging trends and their possible effects on society, conveyed in an entertaining narrative. They also provide practice in fleshing out the details of a future scenario.

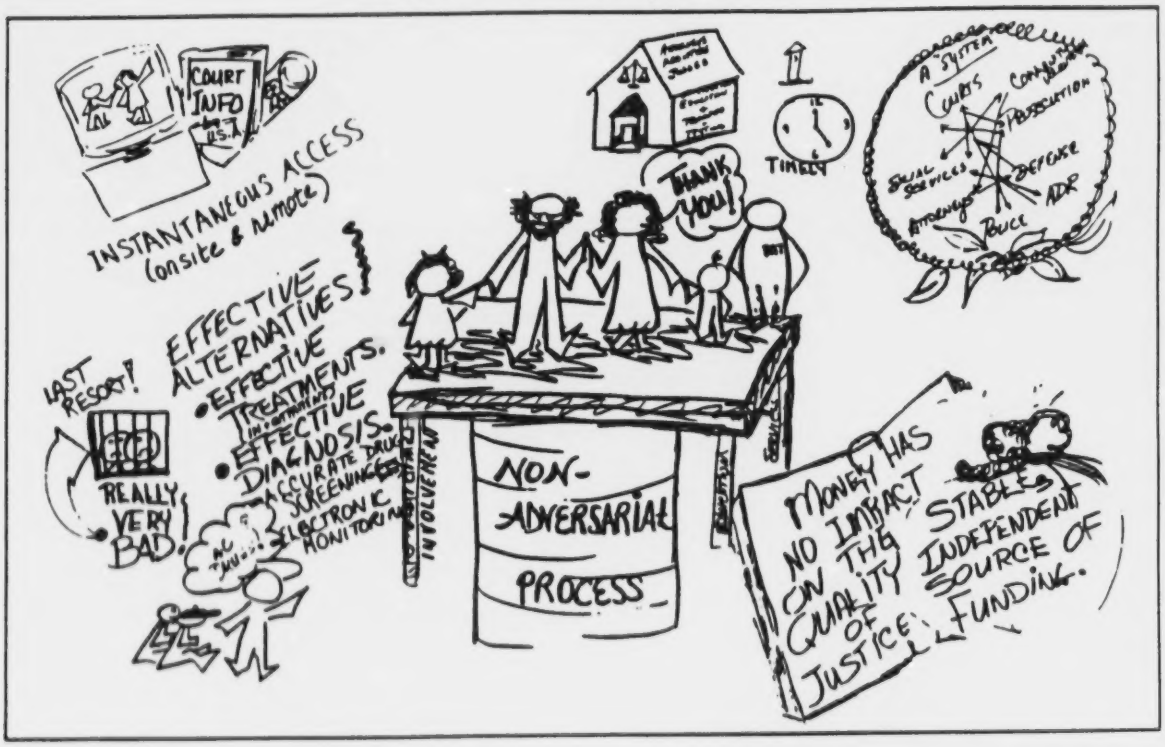
The video, "Envisioning Justice: Reinventing Courts for the 21st Century," was designed to introduce visioning as a creative and productive planning tool. It not only provides an introduction to visioning, it also discusses trends affecting the courts and possible alternative futures for court systems. It introduces people to the idea of creating change and designing positive futures and ties specific changes occurring now with traditions of change that already exist within the courts. The sections below that describe specific

Florida Personal Visions

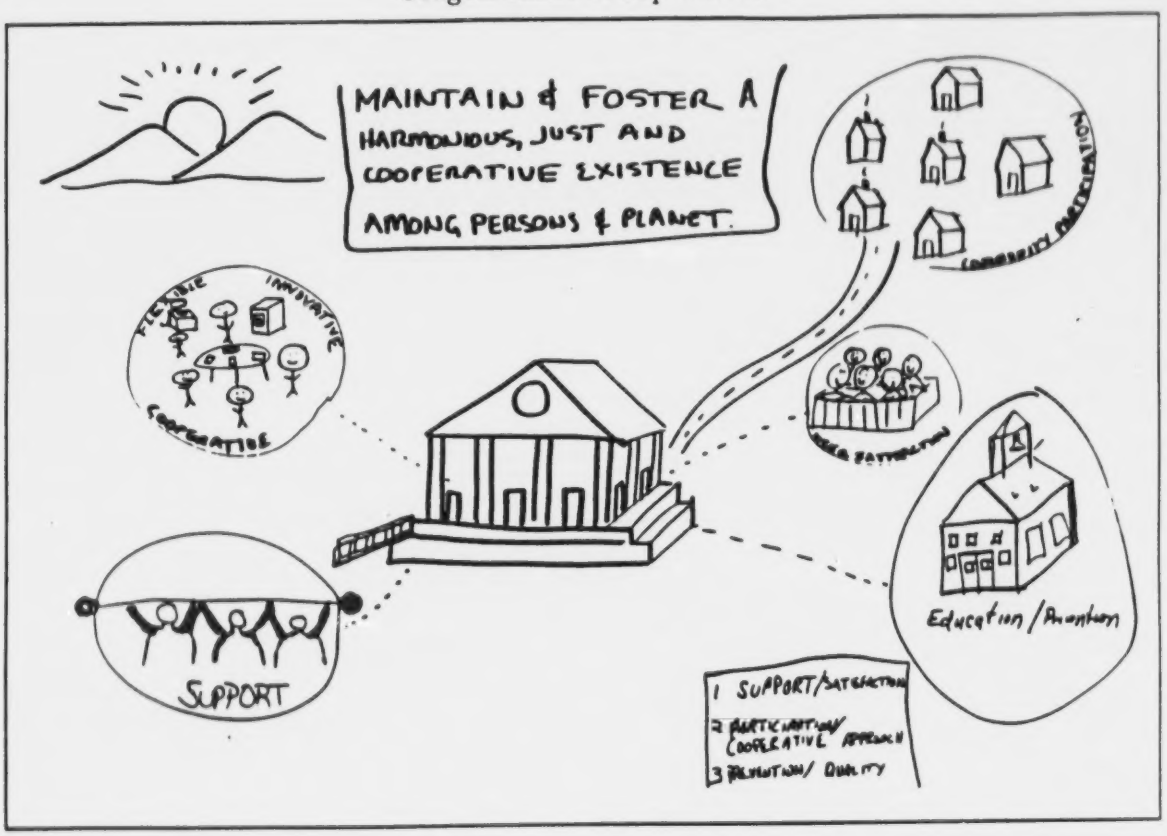


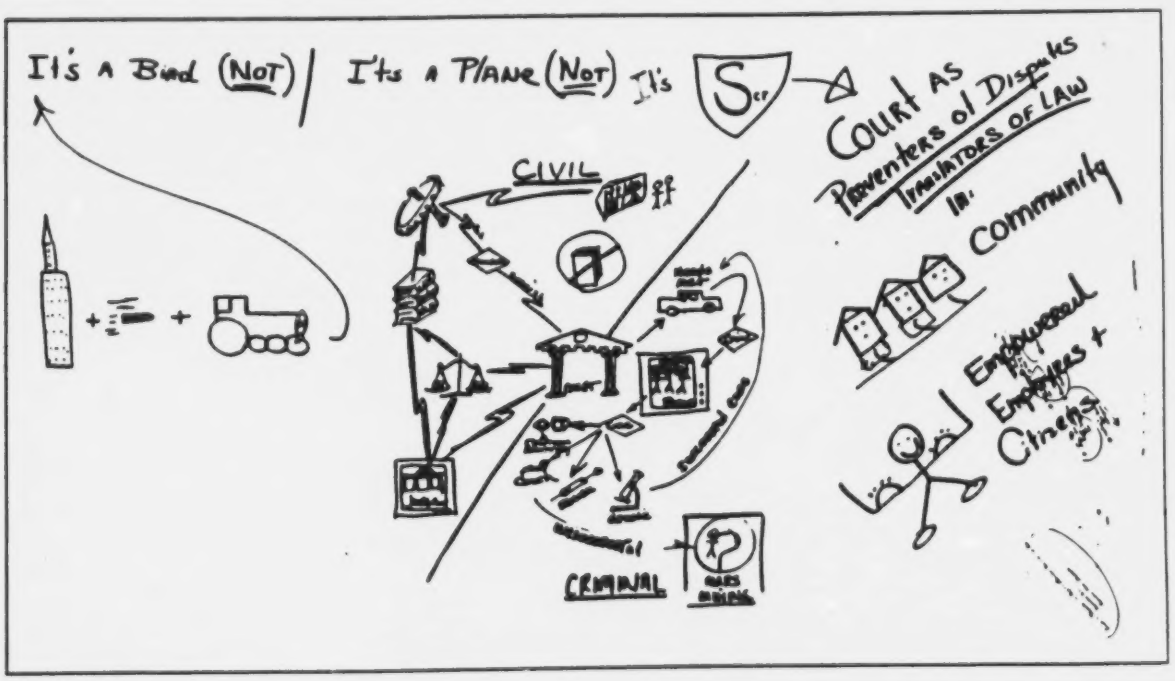


Florida Small Group Visions



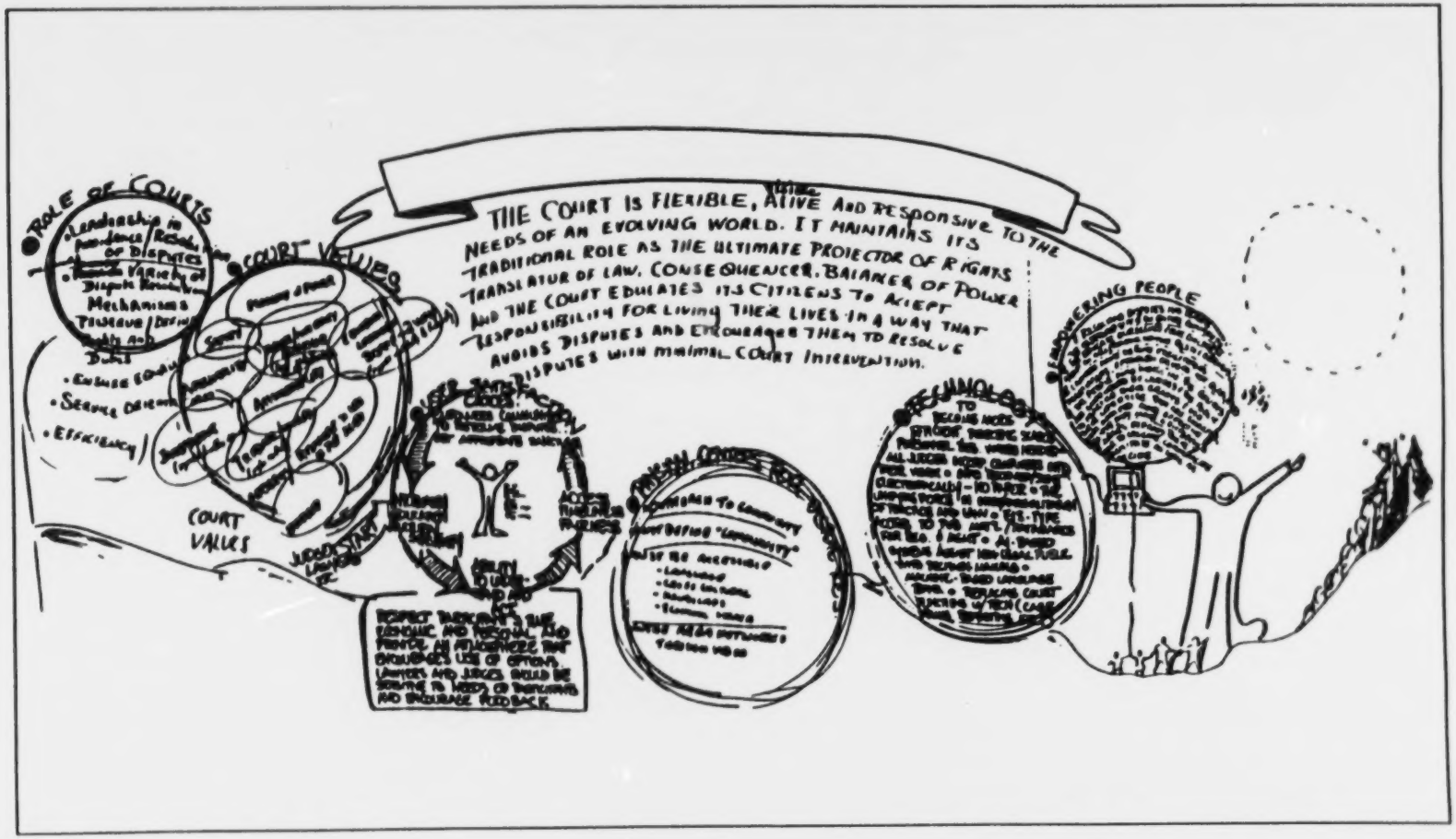
Oregon Small Group Visions





BEST COPY AVAILABLE

Oregon Vision for the Courts


THE COURT IS FLEXIBLE, ALIVE AND RESPONSIVE TO THE NEEDS OF AN EVOLVING WORLD. IT MAINTAINS ITS TRADITIONAL ROLE AS THE ULTIMATE PROTECTOR OF RIGHTS TRANSLATOR OF LAW, CONSEQUENCER, BALANCER OF POWER AND THE COURT EDUCATES ITS CITIZENS TO ACCEPT RESPONSIBILITY FOR LIVING THEIR LIVES IN A WAY THAT AVOIDS DISPUTES AND ENCOURAGES THEM TO RESOLVE DISPUTES WITH MINIMAL COURT INTERVENTION.
ROLE OF COURTS
COURT VALUES
EMPOWERING PEOPLE

BEST COPY AVAILABLE

workshop exercises also offer means of using the video to illustrate some of those exercises.

Individual and Small Group Visions

The critical step in a vision workshop is individual vision creation, and the sharing of those visions. Do whatever you can to ensure that people feel comfortable, casual, creative, and secure. There are no wrong answers in vision creation, and no idea is too absurd. For a large vision workshop, individual visioning and reporting back, and small group vision synthesis with reports back to the whole workshop, should take about one-quarter of your allotted time.

Participants will need about an hour to themselves to think about their personal vision of the future for the courts. Encourage people to spread out, lie down, sit on or under tables, and otherwise adopt whatever position makes them feel most imaginative. If you plan on organizing many successive vision workshops, this initial effort can be shortened a little, with people just getting down to the basics rather than trying to flesh out a detailed vision scenario in the beginning. About half-way through the time allotted, remind people to express their visions *graphically*, using the sheets of newsprint and colored markers provided. Stress the use of diagrams, stick figures, abstracts—everything but words. They can add the words when they explain their picture to the group. The following examples from the Florida vision workshop demonstrate how creative participants can be.

Next, each participant explains his/her illustrated vision to the group. This will take four to six minutes for each presentation, so it could be quite time intensive with a large group. If you have over a dozen people involved, split the workshop into working groups and have individuals report back just within their working groups. You may either assign individuals to groups before the workshop or allow people to choose their own groups.

Moving from individual vision statements to a cohesive group vision statement is the most difficult step in a vision workshop. Generally, it involves identifying common themes, refining them, and incorporating the colorful details from the individual vision statements to illustrate and define those themes. In a large group, this becomes an iterative process, with participants synthesizing small group vision statements from individual visions, and then the group as a whole synthesizing a larger vision statement from those small group visions. The previous pages include four examples of vision statement synthesized within small groups from the Florida and Oregon workshops.

Initial Group Vision

Finally, out of common themes identified across the small group visions, the group as a whole begins to sketch out the structure of the larger vision statement. Refining the larger vision statement will require fully one-quarter of your allotted time because at this stage people must have an opportunity to raise points of clarification and to critique the statement. Once those questions have been addressed, you can ask participants to suggest next steps, sign up for those they feel are within their purview, and then debrief. The graphic from the Oregon

Courts vision workshop illustrates the kind of draft vision statement participants might create.

Designing Agendas: Exercises

Seventeen exercises that help people think rigorously and creatively about their preferred future are included in this guidebook, together with information on how to use them in the vision process. The exercises fall into five groups, according to objective: warm-ups; exploring new frontiers; vision design; moving from vision to strategy; and identifying vision side effects.

This section of the guidebook provides five matrices, one for each exercise group. Each matrix provides an estimate of the approximate time needed to work through each exercise and the basic objective of each exercise within the visioning process. Accompanying each matrix is a brief discussion of the uses of each exercise.

The actual worksheets and information required for the individual exercises are located in Appendix B, which contains its own table of contents to facilitate access to the material it contains. Recognizing that many other related exercises exist, Appendix E provides a bibliography for finding other exercises or processes helpful in envisioning the future. As previously mentioned, Appendix A contains sample agendas that illustrate how to combine these 17 exercises to fit different schedules. The exercises also may be used individually in planning and problem solving.

In addition, the informational pamphlet that accompanies the video, "Envisioning Justice: Reinventing Courts for the 21st Century," suggests provocative exercises to get people started in futures thinking. Facilitators also may use the video with the exercises that follow. Workshop organizers and facilitators should review the video in its entirety first, then consider noting suggested segments for "start and pause" play to highlight specific exercises. Examples follow the specific exercise.

All the exercises are meant to be provocative and challenging, to enhance creativity. But they also are meant to be fun. You ought to hear people laughing at least once each hour. If you don't, then it is likely they are holding the present in too much reverence. Revisit "Removing Constraints."

Warm-ups

The exercises in the first group generally are used as warm-up exercises, to get people thinking about the future or to hone their listening and imaginative skills. "What the Courts Mean to Me" is not only a good active listening exercise, it gets participants to express what they value about working in the courts, and in what court-related activities their sense of personal fulfillment lies. If participants have watched "Envisioning Justice," you may wish to replay the segments that focus on Chief Justice Burger and ask participants how their view of the courts accords with, or differs from, the vision for the courts Chief Justice Burger was trying to achieve.

"Court Changes" and "Key Forces" ask participants to identify trends, both historical and current. This helps build an extended timeline for the group and

makes the transition into a future perspective easier. "Key Forces" might constructively be preceded by the segment from the video on scenarios, emerging issues, and trends. "Court Changes" can be focused to elicit problems that have emerged as well as past success stories, and thus serves as a psychological springboard into the visioning exercise, as does "Preliminary Personal Vision." This exercise asks participants to provide the first brief glimpse of their ideal court system: sort of the Polaroid snapshot of the vision.

Exploring New Frontiers

To devise an imaginative vision of the best your court system can be, people need to shatter the limits of their thinking about the future generally, and about the future for courts in particular. "Asking Fundamental Questions" was designed by court planner Dr. Sohail Inayatullah to get people to imagine radically different

Warm-ups Matrix

Exercises: Warm-ups	Time (min.)	Objective
What the Courts Mean to Me	15	Define key values; listen actively and neutrally
Court Changes, Past and Future	45	Appreciate extent, speed of change; begin to build a mental timeline; brainstorming skills
Key Forces Changing the Courts	15	Appreciate external forces, emerging trends
Preliminary Personal Vision	15	Express best hopes; listen actively and neutrally

Exploring New Frontiers Matrix

Exercises: Exploring New Frontiers	Time (min.)	Objective
Asking Fundamental Questions of the Judiciary	30	Rethink traditional structures; brainstorming skills
Alternative Futures I: Different Courts, Different Clients	45	Re-vision / redesign courts; adapt to radically changed circumstances; imagination and scenario-building skills
Alternative Futures II: Judicial Headlines	30	Re-vision courts; identify crucial issues in changed mileau; scenario-building skills

possible structures for courts. In addition, if you have participants who are not actually court staff, it serves to remind them of the range of components that compose a court system. Both the "Alternative Futures" exercises put participants into a possible future, very different from today, and ask them to imagine how the judicial system might change, and what new critical issues it might face. To help people envision how social and technological change might affect the courts, let participants review and critique the possible high-tech court future portrayed in "Envisioning Justice."

In Appendix B are other examples of possible futures for the judiciary, excerpted from *Alternative Futures for the State Courts of 2020.* These invoke a wide variety of responses, from mild disbelief through guffaws all the way to unbridled outrage, but are actually logical extensions of trends identifiable today. These exercises are designed to be both provocative and fun. Since most of the scenario is already drafted, participants have only to add, in a logically consistent fashion, further details to a future already in progress. This helps people understand what level of detail a vision might contain, and provides a "dry run" for unassisted visioning. Finally, these exercises help people identify characteristics that they may want specifically to exclude—or include—in their vision statements.

Vision Design

The first two vision design exercises, "Removing Constraints" and "Building Blocks," also expand participants' imaginative horizons. Whereas the alternative futures exercises do so by presenting ready-made scenarios, these two exercises ask people to brainstorm ideas as the initial step to devising a vision. Thus, people do not have to begin their vision creation cold: these two exercises act as kick starters, or prompts, to the imagination. Both "Removing Constraints" and "Asking Fundamental Questions" (from

Vision Design Matrix

Exercises: Vision Design	Time (min.)	Objective
Removing Constraints on Visionary Thinking	15	Envision positive difference; getting past "yes, but . . ."
Building Blocks for 21st Century Court System Design	15	Explore court uses of both social and technological innovations; imagining trade-offs in choosing vision details
Personal Vision Worksheet	60	Express characteristics that make a court system the best it can be; ID purpose; program, and participants
Group Vision Development	60	Identify common themes; agree on related details; clarify and expand specific details

the previous section) also may be used as probes by the facilitator, rather than as formal exercises. If people's imaginations seem blocked, working through one or two of the questions from either of these worksheets can get ideas flowing again. Alternately, review the video segments on Turner's creation of CNN, which ends with the phrase, "People with vision constantly fight conventional wisdom." What suggestions could participants make for the future of the courts that would fly in the face of conventional wisdom?

From Vision to Strategy

Visions do nothing unless we act on them. But at first blush, they can seem so idealistic as to be dreams. Thus, the first exercise in this section, "From Here to There," seeks to answer the question, "What, logically, would need to happen for this vision to be reality 30 years from now?" Participants attempt to deduce necessary precursor events for the vision and arrange them on a timeline. "Where We Can Start" and "What We Can Do Now" begin to sketch out a strategic plan and list present objectives that would help create the necessary precursor conditions for the vision. During this process, all of the "yes, but . . ." and "that will never work because . . ." people will surface with a vengeance. Remind the group that the only process allowed in this session is problem solving, and the only attitude appropriate is "can do!"

Identifying Vision Side Effects

Finally, a section where all the "yes, but . . ." people can really shine. Exploring the potential side effects of an ideal scenario for the future is a treasure that frequently is forgone due to workshop time constraints. In the larger strategic planning process it is crucial, so these exercises need to be worked into the planning picture somewhere even if no time exists during the vision workshop proper. These three exercises acknowledge and focus on the fact that even our dreams, upon closer examination, will be flawed: be careful what you wish for, you may get it. As such, these exercises make visioning an iterative process: after you

From Vision to Strategy Matrix

Exercises: From Vision to Strategy	Time (min.)	Objective
From Here to There: Necessary Precursor Events	45	Design logical links between the present and the vision; brainstorming
Where We Can Start	30	Identify resources, allies, action settings to achieve earliest precursor or foundation of vision; suggest initial objectives
What We Can Do Now	45	Participants list actions they could take to achieve initial objectives; offer time estimate and commitment to one

identify the possible flaws, you amend the vision, or the steps you have planned to achieve it, to ameliorate those flaws and their effects. "Identifying Side Effects" takes an informal approach, mirroring the personal vision exercise; "Future Wheels" is a loosely structured brainstorming process; and "Cross-impact Matrix" is a more rigorous approach to comparing the cumulative impacts possible across several vision subcomponents.

Basic Skills: Facilitation/Recording

Professional facilitation of the workshop, while not necessary, makes things run much more smoothly—and allows you, as designer, to participate along with everyone else. If you or other staff members must facilitate the workshop and have no formal training, run out immediately and get your hands on a copy of Michael Doyle and David Straus's *How to Make Meetings Work*, which is a classic—and very readable—on group process facilitation. It is listed in Appendix E: Additional References/Resources.

Facilitators basically are traffic coordinators for communication. They make sure that the conversational space is shared fairly by all participants. They also keep the discussion on the path proposed by the agenda and try to keep the group on schedule. Recorders create the group's "memory" on wall notes: flipchart sheets or butcher paper posted on the wall. As each participant offers an idea, makes a suggestion, raises a question, or comments during brainstorming or discussion, the recorder notes what was said *as accurately as possible*. Not a verbatim account, but an abbreviated statement that correctly reflects the gist of the participant's contribution in the participant's words. It is critical that the recorder be skilled in active listening and be able to write very quickly and very clearly. Record all suggestions (remember, no wrong answers), nothing is absurd.

The facilitator helps the recorder by asking participants to suggest short phrases that summarize their ideas; the facilitator may even prompt with a suggested shortened restatement of the

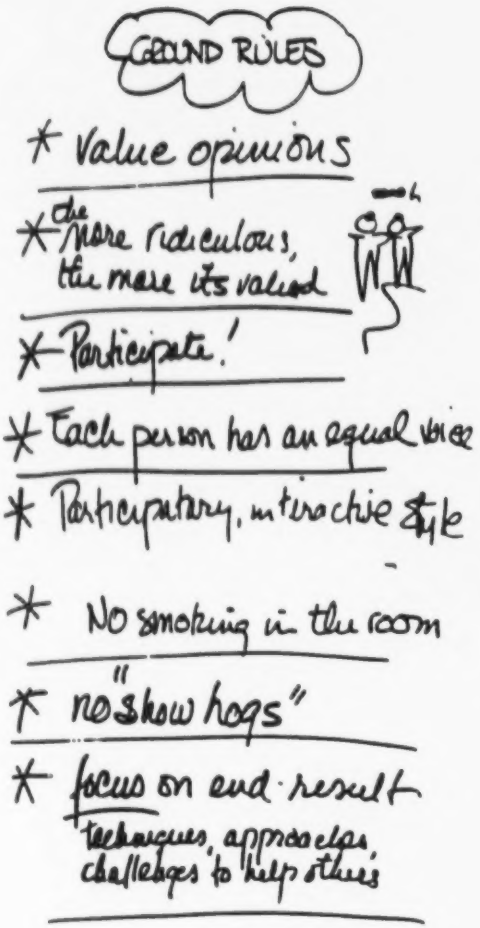
Indentifying Vision Side Effects Matrix

Exercises: Indentifying Vision Side Effects	Time (min.)	Objective
Identifying Side Effects	30	Identify side effects, benefits/disadvantages, and for whom; discussion
Futures Wheel	45	Focus on a single court action; explores primary, secondary, and tertiary side effects; brainstorming
Cross-impact Matrix	60	Consider several components/actions; identify cumulative impacts; discussion

comment. Facilitation and recording thus result in an orderly capture of people's ideas in a way that everyone can follow during the workshop. Ideas can be revisited, revised, expanded, or discarded.

Good facilitation begins before the workshop, with dissemination of the agenda in advance. As mentioned previously, during the first hour of the workshop the facilitator introduces herself or himself and other members of the workshop facilitation team and asks participants to introduce themselves. Together, everyone reviews the agenda and, if necessary, revises it. It is useful at this point to ask participants what their expectations are of the meeting and its outcomes, and to post their responses as the first set of meeting wall notes. In this way, expectations can be revisited during the meeting as a check on participant satisfaction. Finally, the group establishes the ground rules. The facilitator asks participants to suggest effective ground rules that mesh with their expectations and reviews the brainstorming and futures ground rules that the exercises require.

To summarize, begin the meeting with **O**utcomes, **A**genda, **R**oles, and **R**ules (**OARRs**). Explicit outcomes provide clear focus and direction; agreement on the agenda gets everyone on board the process; establishing roles and basic rules provides controls for the process; all four together build group trust and confidence.[1]


GROUND RULES
* Value opinions
* the more ridiculous, the more its valued
* Participate!
* Each person has an equal voice
* Participatory, not hierarchic style
* NO smoking in the room
* no "show hogs"
* focus on end-result
techniques, approaches, challenges to help others

Brainstorming has a simple basic rule: don't judge. Simply lob ideas out as they come to you. Let other people do the same. The facilitator's primary job in a brainstorming session is to keep ideas flowing. This means acting as an enforcer of the ground rules that people agreed upon at the beginning of the meeting. During brainstorming, it means politely but firmly squelching arguments, qualifications, and even requests for elaborations—those may be requested later, when all the basic ideas have been recorded. It means reminding people to offer only the idea, not all the corollary examples (this

1. The authors gratefully acknowledge the facilitation training materials of Graphic Guides, Inc., as the primary source for this paragraph and the subsequent checklist on fundamental principles of facilitation. For further information on facilitation materials and facilitation training, see Appendix E.

slows down the flow of ideas and limits other people's opportunities by taking up airtime). Elaborations, examples, and even qualifications may be added during a clarification and evaluation session after brainstorming.

In addition, the facilitator should be a model of **active listening**: listening to understand, not criticize; listening positively, not as an adversary; and asking open-ended questions for clarification. Facilitators protect individual participants and their ideas from attack, and legitimate everyone's contributions to the workshop by ensuring that the recorder captures them on the wall notes. Exhibiting a positive attitude and encouraging participation is also part of active listening: listening with your eyes as well as your ears, so you can spot the shyer participants and encourage them to offer their thoughts.

Almost every group contains some obstreperous, cantankerous, rebellious, irreverent, or in some other way difficult people. It falls to the facilitator to smooth out these burrs in the fabric of discussion. Basically, facilitators do that by accepting, legitimizing, dealing with, or deferring. That is, they accept the comment or idea without agreeing or disagreeing, and legitimate it by making sure it gets entered onto the group memory. They then boomerang the comment, criticism, or question back to the group as a whole, asking all the participants if they want to deal with it immediately, or defer it until later.

Applying these facilitation principles should result in a workshop in which everyone feels they have a fair chance to air their thoughts, in which participants generate a lot of creative energy and produce a lot of interesting and useful ideas, and in which all of the ideas are captured on the group memory for later use. The following checklist summarizes the fundamental principles of facilitation.

Fundamental Principles of Facilitation

The Importance of Guiding Principles

Facilitation allows a group to create a safe culture for discussion. Make sure at the outset that everyone agrees on the guiding principles used to create that safe culture.

Getting Involvement and Setting the Pace

Imagine Potential in Every Situation—maintain a sense of wonder about what the combined force of the group can possibly create.

Assume a "We" Frame of Mind—facilitators, recorders, sponsors, participants—*everyone* is a member of the team; do not distance yourself from the participants.

Enroll Management Early in Your Plans—make sure the upper levels of the hierarchy are willing to play as equal members of the team and are willing to let the group control the process.

Manage the Hill of Influence—ensure all participants feel like equal players in the process; give everyone's input equal weight without regard to professional or social rank.

Create a Safe Environment—assure every participant the opportunity to communicate their ideas without fear of ridicule or attack.

Help Problem People Save Face—prevent problems by letting people know what successful behavior is, and what inappropriate behavior is; describe possible problems *before* they are created, and let people know what you will do if problems occur.

Use Simple Frameworks and Stories—communicate by metaphor, analogy, graphics, and by the clearest images that express the basic ideas.

Set a Pace You Can Keep—go slow to go fast; do not rush the group and include sufficient time for reflection, questions, and discussion in the agenda.

Making Decisions and Managing the Flow

Anchor in Outcomes—if you have established clear goals and roles at the beginning, you can get past constraints that arise by remembering your goals and being clear about them.

Agree How You'll Make Decisions—*before* you come to a decision, have the group establish clearly what process it wants to use, and stick by that agreement.

Know When to Lead and When to Follow—sometimes you will need to get the group moving on to the next activity or agenda item, and other times they will move on naturally; let that happen if the group as a whole seems content.

Balance Pushing and Pulling—asking probing questions, moving toward the participants, setting tasks, and taking other aggressive actions *push* participants; understand that at times you should fade back, listen in silence, and create physical and verbal spaces that will *pull* them to respond.

Use Helicopter Quality Thinking—understand that there are different *levels* of information and different perspectives; help the group move through levels and patterns of thinking; zoom into the details or back up to get the big picture.

Appreciate Different Realities—perception is reality; each individual's perception is unique and valuable; help the group appreciate those differences.

Be a Mirror, Not a Magnet—reflect the group's energy back to them, rather than drawing their attention to you; help them stay focused on the task and the process by showing them what they are doing (all the energy should be going toward their experience, rather than toward the facilitator as entertainer).

Tracking Progress and Supporting Performance

Create Public Records—at *every* step of the process, have a recorder create wall notes to establish group memory.

Anticipate the Process—as a facilitator, where are the group's current activities leading? What transition bridges can you create to the next step of the bigger process that will keep energy and results flowing in an organic and progressive way?

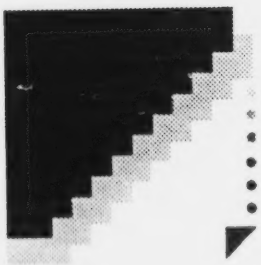
Manage Transitions—refer back to what has just been completed, establish its link to the overall process, and review what steps come next: synthesize graceful bridges that help participants understand the progress they are making.

Improvise with the Magic of "Yes/And" (instead of "Yes, but . . .")—encourage interesting and productive lines of thought by giving the group new space to make additions.

Reframe Problems as Opportunities—explore possible advantages in *every* new situation or context.

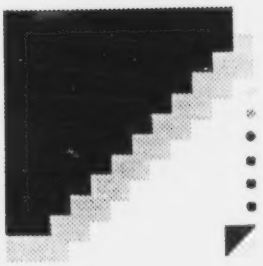
Maintain the Common Ground—start off with everyone on board; check throughout to make sure that everyone is still on board with the same goals for the process.

Create Links and Memories—allow time for reflection so that participants can synthesize the links between the various parts of the process; review and reflect on session outcomes with respect to initial goals and expectations; make sure all ideas, reflections, comments, and syntheses are written or drawn and remain posted on the wall for the duration of the workshop.



Chapter V

Visioning and the Courts



Visioning and the Courts

The preceding chapters have addressed futures thinking and vision creation in terms general enough to apply to almost any organization. This chapter focuses specifically on the courts. It first looks at futures research, foresight activities, and vision projects implemented by courts across the country, to suggest a context for judicial futures thinking. It then suggests how to tailor background material on your court system to focus participants on the goal of creating a dynamic vision.

State Court Interest in the Future

State courts have discovered the future. Throughout the U.S., state courts are employing such futures tools as environmental scanning, vision development, and anticipatory management. Courts in many states are in crisis: concerns over budget cuts, overloaded dockets, and personnel limitations. For many, futures tools are being used to improve their management. Vision development has been part of some of these efforts, though not all.

The Hawaii state judiciary was the forerunner for court futures activities, but by late 1991 three other states—Virginia, Arizona, and Utah—had caught up with Hawaii's futures efforts. Indeed, those courts may well have surpassed Hawaii. In Virginia, both the chief justice and the state court administrator have promoted futures activities. The commission there has concluded its work and published a final report, which has been integrated into the formal planning process for the judicial system. In Arizona, the futures commission has also completed its work, and the courts have begun implementation. Utah's futures commission has drawn to a close, published an interim report, and begun to act on recommendations in the report. Three other states—Colorado, Michigan, and Massachusetts—have recently published commission reports as well.

At the start of 1993, four states had active futures efforts. Maine's legislatively appointed futures commission was draft-

ing its futures commission report. California was well into an intensive program with its court futures commission. In Georgia, the Institute for Continuing Judicial Education has organized a group of 100 participants that is nearing completion of a futures effort. In Texas, the finishing touches were being added to their report.

Both Tennessee and Florida were in the initial stages of establishing futures commissions.

In other futures activities, Hawaii had until 1991 the most-sophisticated scanning program for the courts. A new scanning effort has been undertaken by Virginia as a result of its futures commission. In 1991 Hawaii sponsored a nationally attended futures conference. South Carolina and Illinois did as well. Other professional legal and judicial organizations are also heightening their interest and activities in futures. The American Judicature Society was involved with four of the futures conferences held in 1990 and 1991: San Antonio, Illinois, South Carolina, and Hawaii. With an SJI grant, the American Judicature Society will hold a conference on how to conduct futures efforts with limited resources in the spring of 1993. Both the Conference of Chief Justices and the Conference of State Court Administrators (COSCA), at recent annual meetings, have presented educational panels on futures planning. COSCA actually has a futures standing committee. Finally, the National Association for Court Management included in its 1991 annual conference presentations and workshops on futures and vision development.

Setting the Stage: Providing Background on Your Court

Court vision workshops should include participants from outside the courts. Court stakeholders include representatives from other branches of government, community leaders, social welfare agencies and nonprofit organizations, the bar, and the media, to name just a few. All of these people can offer innovative insights in creating an exciting vision for a better court system. But many of them will need a refresher course in court structure, and most of them would benefit from some data reflecting how the courts are changing and trends with which they have to cope.

As examples of background information for the workshop, Appendix C includes context essays drafted for the pilot vision workshops for Florida's Sixth Judicial Circuit and Oregon's state courts. Note that the two differ. The Florida essay offers information about the basic structure of the court system, and the sixth circuit's place in that system; the challenges the court faces in the '90s, gleaned primarily from the concerns voiced by circuit court judges and related professionals during a series of interviews; and emerging challenges that will rearrange the face of justice and judicial process as we know it after the turn of the millennium. This latter section derived also from the interviews with court staff, several of whom make a regular practice of asking "what if?"

The Oregon state court essay also begins by reviewing the structure of the state court system. It then moves on to

discuss current baseline data on court structure, staffing, budgeting, and caseloads. This essay ends with a brief look at issues the court staff feel will have the greatest impact on the courts for the '90s. The winner, hands down, is funding and budgeting; but an interesting close second is staff morale—the pressure to increase processing efficiency is eroding love for the law.

At base, background material offered to workshop participants should include a brief history of the courts and court structure. It should describe current court structure and its relationship to other agencies and organizations within government. An interesting visual to include would be a diagram showing the agencies, offices, outside organizations, etc., that interact with the courts—that is, the major institutional players in the judicial system. This diagram would remind those organizing and participating in the workshop of the diverse groups that must be considered when developing a vision for the courts.

It is also helpful to describe current staff resources, budget, and funding levels, and identify the sources of court income. Other illuminating statistics are those that relate the number of cases filed and processed. Expressing this information as both the absolute number in the current year, and the percentage change over the last ten years, helps potential workshop participants grasp some of the pressures the courts are under—especially when compared to the budget figures.

After the historical, institutional, and statistical description, it is appropriate to offer staff perspectives on the courts. An informal series of interviews to elicit court staff opinions on the court's most notable strengths and weaknesses would provide information germane to the vision process. What do people think is being done right? What do they think is being done wrong, or flies in the face of justice and judicial processes as they would like to see them? What do they think are the greatest challenges facing their court system over the next 10 to 20 years? The first two questions in particular will help ease people into the frame of mind necessary to imagine the best the courts can be.

There is an added bonus to gathering this information; if done systematically, it can serve as a cornerstone for a court mission statement. If you begin by asking people to summarize what they think the court's mission is, and then ask them what the court's strengths and weaknesses are with respect to that mission, you can end the interview by asking them what an updated mission statement for the court would be. It also will enhance people's interest in the workshop; everyone likes to think that their opinion helps clarify other people's grasp of a situation.

Finally, for those court systems lacking in amateur futures researchers, the National Center for State Courts provides a yearly update on emerging trends challenging traditional court structures. Or the essay might end with a few illustrative alternative scenarios drawn from work by other courts, as cited in Appendix E: Additional References/Resources. End the essay provocatively—or with a clarion call for change.

To sum up, background information offered participants might include a

review of court foresight activities elsewhere; a brief history and description of court structures; current descriptive statistics on staffing, budget, and work load; a consideration of the system's strengths and weaknesses; and an initial attempt to enumerate the challenges the court faces for the next 5 years and the next 25.

Chapter VI

The Vision Process Beyond the Workshop

The Vision Process Beyond the Workshop

The state courts vary widely in structure. Any workable vision design and implementation process must adjust to that variety. In devising an ongoing vision process, several key questions arise, some of which echo the issues faced in initiating the vision process: Who will serve as primary *champion* of the visioning effort? Who will serve as *support staff* for the visioning process? What will the *source of funds* be for the vision process? What range of *participants* will be invited, and what *interests* will they represent? What *products* emerging from the visioning process would be most useful to the court? Who will *review and comment* on the vision? and finally, How will results be disseminated throughout the community?

What follows is a template for the potential role and scope of a vision development program within a given court system. Five key components of an ongoing court vision process are addressed: (1) resource level; (2) types and depth of futures research; (3) stakeholder involvement; (4) outreach; and (5) communicating and disseminating the vision. Finally, the role of the vision workshop is viewed in the context of ongoing strategic planning and management for the courts.

Resource Level

First, identify the available *leadership* resources. Successful vision development requires a champion. Who will promote not only the usefulness of the process, but the vision that results? If the champion is neither the chief justice nor the court administrator, what support might they offer the champion?

After a champion—or better yet, several champions—is identified, the vision development process needs a secure niche in which to reside. Court planners and planning offices are rare; court futures commissions are, as documented above, becoming more common but usually have limited life spans. What program within the judiciary, if any, might already pursue some research, planning, or training activities to which visioning would be a logical adjunct? Once located, how much internal staff time and budget are available for vision development? Might outside expertise, on regular intervals, be more cost-effective than dedicated staff time?

Second, consider financial resources. With regard to budget, courts interested in implementing vision development

processes could initiate a visioning project of limited focus, e.g., a subunit of the court, by piggybacking where appropriate on activities in progress. Visioning, after all, should be a continual process: as much a mental perspective applied to every other activity as it is an activity in its own right. Some courts may wish to make a larger commitment to the visioning process; they could either attempt to add the activity to their annual budget, or go outside their usual budgetary channels to search for grant funds. The former requires convincing funding authorities; the latter requires investment of considerable preparatory and administrative time for resources usually limited to a year or two.

Types and Depth of Futures Research

Vision development is only a small part of policy- and planning-focused futures research. The broader family of futures research activities, often referred to in toto as "foresight," includes monitoring trends, innovations, and emerging issues; evaluating the long-range effects of such changes to identify opportunities and threats; and creating from the trend data possible images of alternative futures that may then be used to test potential policies, programs, and projects for viability against many contingencies. Futures research is more a way of perceiving and thinking about reality than anything else, and the more people practice perceiving and thinking in futures terms, the better they are at the exercise. Thus, implementing other futures research projects and programs will enhance the court's capacity for quality vision development. Such programs could range from modest quarterly futures colloquia for judiciary staff to full-blown futures research divisions.

Stakeholder Involvement

Visions cannot be imposed, and to be created successfully require teamwork. Thus, an ongoing vision design process by definition ought to include the entire community at interest. Determining the boundaries of that community for any given court will prove challenging. State courts are linked directly to any number of state agencies on which they rely: social services system, law enforcement, correctional system, state legislatures, sometimes local governments, local representatives and electors, and the population of possible clients for court services. Any of these would prove a resource in the process of vision building, adding valuable depth of perspective. And the more people actively committed to a vision, the more likely it is to be realized. Sound decisions on the scope and nature of stakeholder involvement probably will contribute more to the long-term success of a vision development program than any other decision the court will make.

Outreach Strategy

This is intimately connected to stakeholder considerations. Once the judiciary or court develops its vision, it would be well advised to circulate it for review and comment. Not only should all court staff have the opportunity to look it over, but

also the bar, law enforcement, the law schools, governmental bodies, parole officers, social workers, corrections officials, prisoners, community opinion leaders and business people, "the rest of us," and the legally affiliated public interest groups (e.g., ACLU) that often represent "the rest of us." The courts also may consider encouraging a network of vision development processes among its several stakeholder agencies, institutions, and groups; their feedback to each other could take the shape of "commentary" visions in a continuous process. While that may be a utopian image in itself, still the court must decide how often it will update its vision statement and what levels and types of outside participation the vision process will involve.

Communicating and Disseminating the Vision

Finally, what is after all a government goal-setting activity requires public explanation, of both its results and its methods. At the very least some of the public will want access to the vision statement itself and an explanation of the process. The court will also wish to consider briefing judiciary staff and training them as vision facilitators; aggressively implementing training programs for judges, lawyers, and law clerks; suggesting that local law schools initiate classes in vision development, which address the interplay between court vision statements and legal developments; and raising public awareness through both the formal educational system and more-informal public meetings about the court vision process.

Strategy Development and Implementation

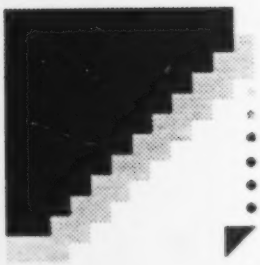
This workshop was designed to stretch participants' ability to imagine the future as different, to ask "what if?" It enabled them to identify and articulate their ideals and their long-range goals. Honing the ability to articulate what we *want* to occur by these means also hones our ability to imagine different outcomes for trends of change emerging around us. Learning to ask "what if?" in a structured and creative fashion is a step toward identifying the effects of emerging change on the vision.

In an ideal world, strategic planning and management would include several ongoing, interlinked processes: (1) needs assessment; (2) program evaluations; (3) trend identification, monitoring, and modeling; (4) describing possible alternative scenarios and devising strategies to meet both their opportunities and their crises; (5) visioning, to provide a context of values goals with which to evaluate the previous four processes; and (6) implementing strategies based on the visions. Strategy implementation naturally links to needs assessment and program evaluations; strategy development includes the policy formulation, decision making, and budgeting that modifies existing programs and initiates new ones.

Courts should consider designing a strategic management approach like that described. Instituting scenario building as a quarterly activity among the court staff will result in a constantly refreshed "library" of alternative images of the future. An evaluation process that asks how current and prospective programs might play out across alternative futures will

enable courts to judge program comprehensiveness and flexibility across a range of conditions. Linking vision development with an ongoing process to explore and evaluate alternative future scenarios will help courts identify possible social, political, economic, and environmental trade-offs required on the way to achieving broader goals for the administration of justice. Progress toward a preferred future described in the alternative scenarios may be monitored by collecting data on the development of the trends that define those scenarios. Courts can monitor, model, and manage the trends affecting their future. More important, they can design and create the future they desire despite the winds of change.

The graphic below offers definitions of the outcomes of such a process: formal court vision and mission statements linked with clearly articulated court values. Staff and stakeholders act to achieve the vision through a plan, or set of strategies, implemented by detailed programs, or tactics. Most institutions, agencies, organizations, and companies within the United States operate at the level of tactics; the good ones have strategic plans. But the truly creative, productive, change-making organizations energize their actions and pursue excellence with vision. Courts can begin their pursuit of excellence today by creating their vision of tomorrow.



Appendix A

Vision Workshop Design Worksheet

Sample Agendas

Vision Workshop Design Worksheet

LEADER/
CHAMPION:

COORDINATOR:

SUPPORT STAFF:

FOCUS:
specific courts
court system
administration of justice
admin. of justice, overseeing
conflict resolution
admin. of justice, overseeing
conflict resolution, & nature
of substantive justice
other:

GOALS/EXPECTATIONS:

PARTICIPANTS:
bench
bar (public, private)
criminal justice agencies
state attorneys
court employees
lower court representatives
citizen groups
advocacy groups
public defender
opinion leaders, media
others

IDEAL NUMBER:

DATES:

TIMES:

LOCATION:

FUNDING REQUIRED:
FUNDING SOURCES:

BACKGROUND INFORMATION:
court statistics
staff, caseload, budget
local statistics
# of crimes, type of crimes, socioecon.
indicators, demographics
current challenges, frustrations
emerging trends
outside speaker:

BEST COPY AVAILABLE

EXERCISES

WARM-UPS TIME

BREAK/MEAL?

EXPLORING NEW FRONTIERS TIME

BREAK/MEAL?

VISION DESIGN TIME

BREAK/MEAL?

VISION TO STRATEGY TIME

BREAK/MEAL?

VISION SIDE EFFECTS TIME

MATERIALS REQUIRED

OUTREACH/DISSEMINATION

Format for vision/workshop report

Circulation:

Feedback:

ONGOING VISION PROCESS

Links to court planning/foresight activities:

Monitoring progress:

Vision Renewal:

Sample Agenda One

Four 1.5 hour meetings; 15-person group.
Repost cumulative wall notes for each meeting.

	Meeting One	**MIN.**
1)	INTRODUCTIONS, EXPECTATIONS, GOALS, AGENDA	30
2)	"Court Changes, Past and Future"	45
3)	"What the Courts Mean to Me"	15

Hand out material on emerging issues and trends for next meeting.

	Meeting Two	**MIN.**
4)	REFLECTIONS on previous meeting; AGENDA	15
5)	"Key Forces"	15
6)	"Alternative Futures I"	45
7)	"Removing Constraints on Visionary Thinking"	15

	Meeting Three	**MIN.**
8)	REFLECTIONS on previous meeting; AGENDA	15
9)	"Personal Vision Worksheet"	45
10)	Compare personal visions ("Group Vision," Step One)	30

	Meeting Four	**MIN.**
11)	AGENDA	5
12)	"Group Vision Development"	60
13)	REFLECTIONS	25

Sample Agenda Two

Full day; 30 people.
Three small task forces, each focused on a particular area, e.g., family courts, probate courts, trial courts, or courts of limited general or appellate jurisdiction.

		MIN.
8:00 AM - 10:00 AM		
1)	INTRODUCTIONS, EXPECTATIONS, GOALS, AGENDA	60
2)	"Key Forces": Presentation and Exercise	30
3)	"Asking Fundamental Questions"	30
10:00 AM - 10:15 AM	**BREAK**	
10:15 AM - 12:00 PM		
4)	"Removing Constraints on Visionary Thinking"	15
	Discuss	15
5)	"Building Blocks for 21st Century Courts"	15
	Discuss	15
6)	"Personal Vision Worksheet"	45
12:00 PM - 1:00 PM	**LUNCH**	
1:00 PM - 2:45 PM		
7)	REFLECTIONS	30
8)	"Group Vision Development"	75
2:45 PM - 3:00 PM	**BREAK**	
3:00 PM - 4:30 PM		
9)	"What We Can Do Now"	45
10)	Report back to the workshop as a whole; REFLECTIONS; open microphone session	45
4:30 PM	**END**	

Sample Agenda Three

Two full days; 40 people.
Single workshop focus, but four small working groups for manageability.

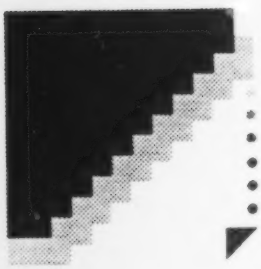
Day One

		MIN.
8:00 - 8:30 AM	**COFFEE**	
8:30 AM - 10:15 AM		
1)	INTRODUCTIONS, EXPECTATIONS, GOALS, AGENDA	60
2)	"Key Forces": Presentation and Exercise	30
3)	"What the Courts Mean to Me"	15
10:15 AM - 10:30 AM	**BREAK (afterwards, break into working groups)**	
10:30 AM - 12:00 PM		
4)	"Preliminary Personal Vision Statement"	15
	Partners report back to small group	15
5)	"Alternative Futures II: Headlines" (report headlines at lunch)	30
6)	"Removing Constraints on Visionary Thinking	15
12:00 PM - 1:00 PM	**LUNCH**	
1:00 PM - 3:00 PM		
7)	"Personal Vision Worksheet"	60
8)	"Group Vision Development"	60
3:00 PM - 3:15 PM	**BREAK**	
3:15 PM - 4:30 PM		
9)	Report back to the group as a whole; identify common themes	60
10)	Review day; brief for tomorrow	15
4:30 PM	**END**	

Sample Agenda Three (continued)

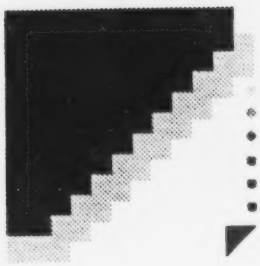
Day Two

		MIN.
8:00 AM - 8:30 AM	**COFFEE**	
8:30 AM - 10:00 AM		
11)	REFLECTIONS; review AGENDA	45
12)	"Group (as a whole) Vision Development" Part I	45
	Review small group visions; identify common elements; draft a structure	
10:00 AM - 10:15 AM	**BREAK**	
13)	"Group Vision Development" Part II	
	Adding details >> self-assigned task forces	45
	Review; critique; adjust	60
NOON - 1:00 PM	**LUNCH**	
1:00 PM - 2:45 PM		
14)	"Identifying Side Effects"	30
15)	"From Here to There"	45
16)	"Where We Can Start"	30
2:45 PM - 3:00 PM	**BREAK**	
3:00 PM - 4:15 PM		
17)	"What We Can Do Now"	45
18)	Open Microphone, REFLECTIONS	30
4:15 PM	**END**	



Appendix B

Designing a Vision Workshop: Futures/Visioning Exercises



Contents

	Page
A Note About Instructions and Materials	75
EXERCISES	
Warm-ups	
What the Courts Mean to Me	76
Court Changes, Past and Future	78
Key Forces Changing the Courts	80
Handout: *Trends Affecting the Courts*	82
Preliminary Personal Vision for the Courts	84
Exploring New Frontiers	
Asking Fundamental Questions for the Judiciary	86
Alternative Futures I: Different Courts, Different Clients	90
Handouts: Four Scenarios of Alternative Possible Futures	92
Global Transformation	92
Cultural Mosaic and the Multi-door, Multi-site Courthouse	94
Hard Times, Generic Justice	95
High Tech Growth	96
Alternative Futures II: Judicial Headlines	98
Handouts: Four Scenarios of Alternative Possible Futures	92
Global Transformation	92
Cultural Mosaic and the Multi-door, Multi-site Courthouse	94
Hard Times, Generic Justice	95
High Tech Growth	96
Vision Development	
Removing Constraints on Visionary Thinking	100
Building Blocks for 21st Century Court System Design	102
Handout: *Building Block Descriptions*	104

Personal Vision 112
Group Vision Development 114

From Vision to Strategy
From Here to There: Necessary Precursor Events 116
Where We Can Start 118
What We Can Do Now 120

Identifying Vision Side Effects
Identifying Side Effects 122
Futures Wheels 124
Handout: *Futures Wheels* 126
Cross-impact Matrix 128
Handout: *Cross-impact Matrix* 130

A Note About Instructions and Materials

General Instructions/Materials

For workshops to succeed people must feel relaxed, comfortable, and unfettered. Make sure that invitations stress casual clothes. Arrange the room or rooms so people can move chairs and tables around. Whenever possible, encourage people to sit on the floors; encourage people to break out of the constraints of everyday perceptions and conventions.

The facilitators should have at least two flipchart pads on easels, two rolls of masking tape, a roll of butcher paper, and two complete, full-spectrum sets of *water color* magic markers. Mr. Sketch markers are just fine, although premiere recorders and facilitators use the next-to-impossible-to-obtain El Markos. Whatever the brand, use of water color markers is critical—they do not dry out as quickly as the more volatile permanent markers, and with water color markers you run less of a risk of permanently inscribing your work on the walls. The roll of butcher paper provides three-foot wide canvasses of various length: for mapping out the agenda; for distributing to the small groups for their initial composite vision; for synthesizing group and individual visions into the overall vision. The facilitators may also want to bring a pleasant-sounding chime or bell to signal the end of activities.

Each small working group should have its own easel, roll of masking tape, and at least one full-spectrum set of water color magic markers (two would be nicer). In addition, each small group will need at least one three-by-five foot sheet of butcher paper to sketch out the small group vision. Participants should also have pads of paper, pencils, and name cards or name tags that prominently display *their first names only*, which lessens the "hill of influence."

Exercise Instructions/Materials

For the convenience of workshop designers and facilitators, the materials for each exercise begin with a resource sheet that enumerates the exercise's objective, time requirements, number of people, material requirements, setup, and potential problems. The resource sheet is followed by an exercise summary that contains specific instructions to initiate and complete the exercise, the requisite number of people (partners, small group, workshop as a whole), and the amount of time to complete the exercise. If the exercise requires handouts, the handouts follow the exercise summary, and may be photocopied from this guidebook.

Note that the optimal number of participants for each small group is four to six. If necessary the small groups could be enlarged to a maximum of ten. Any increase in the number of participants in the small group will also require an increase in the time allotted for any reporting back segments of the exercise.

What the Courts Mean to Me

Resource Sheet

Objective: To help each participant define their key values, and learn to listen actively and neutrally.

Time Requirements: 15 minutes.

Number of People: Two per group; participants work in pairs during this exercise.

Material Requirements: Each participant should have a pad of paper and a pencil or pen.

Setup: Split the participants up into pairs; ask them to rearrange their seats, if possible, so they can focus on what their partner is saying. Encourage them to take notes while listening to their partner, and remind them that "notes" can be either words or pictures—evocative doodles, cartoons, and sketches can help the listener visualize the other person's key values.

Potential Problems: People may get carried away talking—and listening. This exercise runs the risk of running over time. Ask each person to monitor when it is their turn to talk, and ask their partner for time checks. This is not meant to rush people, merely to indicate consideration for sharing time equally.

What the Courts Mean to Me

Exercise Summary—Active Listening

INSTRUCTIONS: Introduce yourself to someone you have not yet talked to at length; that person will be your partner. Your task for this exercise is to explain as clearly as possible what the courts mean to you personally—what you most value about the courts; what you feel their best purpose is. Each of you should spend at least 5 minutes actively listening to the other; you have 15 minutes total.

Active Listening Means:	
Listen as an ALLY:	listening to UNDERSTAND, not to evaluate; listening positively, not as an adversary.
RESPOND to your partner:	nod; when you agree with something, say so; verbally let your partner know that you're still following the verbal track.
TAKE NOTES:	it legitimates what the speaker is saying, it helps you remember, it allows you to highlight or question for clarification quickly.
Ask QUESTIONS:	don't be afraid to ask "dumb" questions—you may get unexpected answers; give your partner every opportunity to explain in detail.
Ask OPEN-ENDED questions:	could you elaborate on that last part?
REPEAT the message occasionally:	Okay, what I think I hear you saying is . . ., is that right?
Be POSITIVE; ENCOURAGE the speaker:	that's an interesting point; please explain further . . .
Use BODY LANGUAGE:	relax, sit back, keep your arms and hands open, SMILE.

If you've listened actively—and been listened to actively—you should be able to explain clearly and in detail not only what the courts mean to you, BUT ALSO WHAT THE COURTS MEAN TO YOUR PARTNER.

TAKE FIFTEEN MINUTES

Court Changes, Past and Future

Resource Sheet

Objective: To help participants appreciate the extent and speed of change, and begin to build a mental timeline that stretches from the past through the present forward into the future. This exercise also develops basic brainstorming skills.

Time Requirements: 45 minutes.

Number of People: 4 to 6 people per group; the workshop breaks up into small discussion groups for this exercise.

Material Requirements: At least one easel, flipchart pad, and three or four different water color magic markers per small group; masking tape; one sheet of three-by-five foot paper for the timeline for each group, and one sheet of three-by-five foot paper to consolidate all the small group timelines for the workshop as a whole.

Setup: Split the workshop up into small working groups; have people rearrange their chairs into circles, or sit around tables if available. Ask the group to choose a group recorder to jot down ideas as people brainstorm. Remind people that the goal is generating a long list of changes **first**, without judgment, evaluation, examples, or discussion, and prioritizing **second**.

Potential Problems: Generally, people find identifying changes they have seen in the past easier than projecting change into the future. To jog their prospective thinking, you may ask them to spend a minute or two verbally reminding themselves of innovations and inventions recently in the news, or refer them to the "Court Building Blocks" listed later in this appendix.

Court Changes, Past and Future

Exercise Summary

You should introduce yourself to the other people in your small group. In this exercise, you are going to consider changes that you have seen occurring around you. This exercise follows the basic rules of brainstorming: reserve judgment; every suggestion or idea is a good one; try to generate as long a list as you can. Everyone take five minutes to jot down a brief list of responses to the following two questions:

- **What changes have you seen in your court over the last 15 years?**
- **What changes have you seen in the legal profession as a whole over the last 15 years?**

Choose a group recorder, and take 10 minutes to consolidate your responses into a group list. Star (*) three items that your group thinks were the most significant in the last 15 years.

NEXT, think about the changes you are witnessing around you today, and the rumors of change on the wind for tomorrow. Everyone take 5 minutes to note brief responses to the following questions:

- **What changes do you think will most affect your court in the NEXT 15 years?**
- **What changes do you think will most affect the legal profession as a whole in the NEXT 15 years?**

Take 10 minutes to consolidate your responses into a group list. Star (*) three items that your group thinks will have the most impact in the next 15 years.

You now have two lists, past and future, which include three critical changes each. Draw a timeline with one endpoint 15 years ago, and the other 15 years from now. How would you arrange your six critical items along this span of time?

Report back to the whole group; the facilitator will draw a summary timeline, adding in each small group's critical changes where specified.

TAKE FORTY-FIVE MINUTES

Key Forces Changing the Courts

Resource Sheet

Objective: To help participants appreciate external forces affecting the courts, and emerging trends.

Time Requirements: 15

Number of People: The workshop as a whole.

Material Requirements: Each person should have a pad of paper and a pencil or pen. Handout: *Trends Affecting the Courts.*

Setup: This exercise works best if participants have had the opportunity to review their copy of the guidebook in advance, or if an introductory speaker has already presented some trends facing society in general and the courts in particular. This does not require rearranging participants' seating, but people must have pieces of paper and writing implements at hand to avoid hunt-and-search delays. Also, remember that people on the ends of rows will have to pass their list up a row, or around to the other end of the row: use the other workshop staff as list runners if necessary.

Potential Problems: Make sure that you focus on *trends*, rather than current worries or fears expressed as problems that will affect the courts' progress into the future—e.g., funding.

Key Forces Changing the Courts

Exercise Summary

On the following pages are two lists of trends likely to affect the courts. They were suggested by legal professionals during various research projects and conferences over the past four years. It is important for you to clarify your own answers to these questions: courts are often unprepared when the future arrives because they have not asked these questions. What trends do *you* think will be important over the long term in shaping the courts? Remember the curve describing the emergence of trends (Chapter II). Try to list items that would fall low on the left side of the curve—try to identify issues that an artist or visionary would sense.

On a piece of paper jot down what you think will be the three most important forces (trends, issues, or events) that will shape the administration of justice and dispute resolution over the next 20 years. Write this legibly enough so others can read it. Pass this paper to the person to your right. Share the papers so each person has one.

On the new list in front of you, written by someone else, cross off the least important of the three items. Pass this to the person on your right also.

On this list, of the two remaining items, cross off the least important. Pass the paper back to the author.

Look at your list. What do you think is the most important? Is it the one which remains not crossed off?

The facilitator will quickly list the items that remain on the flipchart, and also indicate, based on group thoughts, where they would fall on the curve that depicts emerging trends. This provides an initial listing of what the group thinks is most important. (Depending on the time available, the lists can be collected and compared more systematically.)

What does this exercise tell us?

- We are all futurists. We carry models of change in our heads. We can put them on paper and we can evaluate and compare them.
- Given more input, each of us might revise our list of key forces. Futures thinking should make us more flexible.

TAKE FIFTEEN MINUTES

The next page lists trends suggested by judicial experts elsewhere.

Key Forces Changing the Courts

Handout

Trends Affecting the Courts

NCSC Information Services Trends List

1. Increase in AIDS-related cases
2. Greater use of Alternative Dispute Resolution (ADR) techniques
3. More cases focused on authorizing and withholding life-sustaining medical treatment
4. Increased use of alternative sentencing
5. Increased need for and use of court interpreters
6. More court-ordered mental health and drug treatment
7. Increased need for court security
8. Increased use of high technologies
9. Heightened efforts to reduce delay
10. Massive increase in drug cases
11. Proliferating use of facsimile machines to transmit court documents
12. More commissions on the future of the courts created
13. Gender fairness in the courts
14. Judicial sabbaticals
15. Review of and innovation in means of judicial selection
16. Reshaping the role of the jury
17. Mandatory retirement of judges
18. Overcoming racial and ethnic bias in the courts
19. Remote computer access to automated court records and other public records
20. Tort reform
21. Use, collection, and enforcement of fines as alternative to incarceration and probation
22. Videotaped trial records
23. Video teleconferencing court business
24. Voting Rights Act and judicial selection

Griller et al. Trends List from San Antonio Futures Conference

1. Courts as businesses
2. Death of adversary system
3. Courts as true independent "Third Branch"
4. Minor matters to judicial adjuncts
5. Courts "depoliticized"
6. Enhanced information technology
7. Courts asked but unable to solve poverty, drug problems
8. Better coordinated national court community
9. Courts decentralized
10. Less hierarchy, more network management

Preliminary Personal Vision for the Courts

Resource Sheet

Objective: To help participants begin to articulate and express their best hopes for the courts, and to listen actively and neutrally to other workshop participants.

Time Requirements: 15 minutes.

Number of People: Two; participants work in pairs during this exercise.

Material Requirements: Each participant should have a pad of paper and a pencil or pen.

Setup: Split the participants up into pairs; ask them to rearrange their seats, if possible, so they can focus on what their partner is saying. Encourage them to take notes while listening to their partner, and remind them that "notes" can be either words or pictures: evocative doodles, cartoons, and sketches can help the other participants visualize details of their preferred future for the courts.

Potential Problems: It can be difficult for people to let go of their pragmatic, problem-solving personas. Encourage people to dream, to push the boundaries of what is possible. Also, people may get carried away talking—and listening. This exercise runs the risk of running over time. Ask each person to monitor when it is their turn to talk, and ask their partner for time checks. This is not meant to rush people, merely to indicate consideration for sharing time equally.

Preliminary Personal Vision for the Courts

Exercise Summary—Active Listening

INSTRUCTIONS: Introduce yourself to a partner. You will share with each other an initial statement of your personal vision of the courts in 20 years. This could resemble the courts as they currently are OR it can be something completely different. But remember, state what you WANT the courts to become: think about what you value most in the courts, law, and justice systems, and ask yourself what form and structure would best express that purpose. Take 3 minutes to jot down the main characteristics of your vision. Then each person take at least 5 minutes to listen actively to your partner's vision.

Active Listening Means:	
Listen as an ALLY:	listening to UNDERSTAND, not to evaluate; listening positively, not as an adversary.
RESPOND to your partner:	nod; when you agree with something, say so; verbally let your partner know that you're still following the verbal track.
TAKE NOTES:	it legitimates what the speaker is saying, it helps you remember, it allows you to highlight or question for clarification quickly.
Ask QUESTIONS:	don't be afraid to ask "dumb" questions—you may get unexpected answers; give your partner every opportunity to explain in detail, BUT . . .
Ask OPEN-ENDED questions:	could you elaborate on that last part?
REPEAT the message occasionally:	Okay, what I think I hear you saying is . . ., is that right?
Be POSITIVE; ENCOURAGE the speaker:	that's an interesting point; please explain further . . .
Use BODY LANGUAGE:	relax, sit back, keep your arms and hands open, SMILE

If you've listened actively—and been listened to actively—you should be able to explain clearly and in detail not only the key characteristics of your vision, BUT ALSO THE KEY CHARACTERISTICS OF YOUR PARTNER'S VISION.

TAKE FIFTEEN MINUTES

Asking Fundamental Questions for the Judiciary

Resource Sheet

Objective: To help participants rethink traditional judicial structures, and to identify their own assumptions about how the judicial system works: to imagine *difference* in the details of the judiciary's structure. This also hones brainstorming skills.

Time Requirements: 30 minutes.

Number of People: 4 to 6 people; the workshop breaks up into small working groups.

Material Requirements: At least one easel, flipchart pad, and three or four different colored magic markers per small group; and masking tape.

Setup: Split the workshop into small working groups; have people rearrange their chairs into circles, or sit around tables if available. Ask the group to choose a group recorder to jot down ideas as people brainstorm, and to choose two or three fundamental questions to consider. Remind people that the goal is to generate a long list of possible answers to each question, without judgment, evaluation, or examples; discussion of the lists should be reserved until after they are generated.

Potential Problems: Groups can waste a lot of time choosing which of the questions they wish to consider; if time is of the essence, assign two questions in which people would be most interested. If you have split people into groups according to professional responsibilities, you might want to assign each group the questions that most pertain to their professional roles. Remind participants that they should generate responses that *maximize difference* to the current judicial system. Approve of and model this behavior by offering example responses.

Asking Fundamental Questions for the Judiciary

Exercise Summary

Vision exercises are appropriate to ask fundamental questions. Sohail Inayatullah developed the list below for the Hawaii judiciary. In small groups, choose two of these to explore. Your goal is to generate an expansive, imaginative list of responses to each question your group chooses.

- In general the following adjectives are used to *describe* the courts: adversarial, bureaucratic, precedent oriented, incremental, patriarchal, procedural, and win/lose. What would be the adjectives others would use to describe your design (e.g., matriarchal)?

- Presently, only humans, the state, and corporations have *standing*. What are some other entities that could have standing (e.g., cultures)?

- Presently, courts are structured into appellate (i.e., court of last resort, intermediate court of appeals), general (i.e., civil and criminal) or special (e.g., criminal; family; traffic) jurisdiction trial, or limited (e.g., civil under a certain dollar amount; specific criminal offenses) jurisdiction trial courts. What are some alternative court *structures* (e.g., elder courts, science courts; court-annexed alternative dispute resolution)?

- The present *criteria* for a case to enter the various structures include the dollar amount of the claim in civil, and the seriousness of the offense in criminal. What are some other criteria (e.g., public impact of case)?

- Judges are presently *selected* in different ways in different jurisdictions. Generally, these include partisan or nonpartisan elections; election by the legislature; or nomination by a judicial nominating commission, appointment by the governor and approval by the legislature. What are some other ways to select judges (e.g., election by bar)?

- The present criteria for becoming a judge is a law degree, professional respect, experience, citizenship, and membership in the human species. What are some other criteria? Do we need the present criteria?

continued on next page

- Courts are presently *funded* through the legislature, local city or county governments, or a combination of the two. Legislative funding requires indirect lobbying and formal request based on needs. What are some other ways of gaining funds (e.g., automatic funding based on weighted caseload; flat percentage of overall government budget)?

- The present *size* of your court is: expenditures ($____ million or ____percent of your state's budget), full-time judges (____), and personnel (____). What would be the size of your preferred court system?

- *Technology* is presently used for word processing, project management, electronic mail, and fax. What are some other uses for technology (e.g., judicial expert systems)?

- Judges and administrators are presently *educated* on the job and through special programs. What are some other education strategies (e.g., an academy)?

- Presently, *cases* brought before the courts are counted. What are some other possible categories?

- Presently, attorneys (private, prosecutors, and public defenders) *represent* litigants. Who would represent litigants in your design?

- Hearings are presently held in *courthouses*. Where are other possible sites of dispute resolution?

- The courts have been described as having the following *dimensions* and *missions*: 1) Branch of Government—uphold the Constitution; 2) Subsystem of Legal System—coordinate and promote justice among subsystems; 3) Social Institution—anticipate and respond to changing judicial needs of the public; 4) Public Agency—efficiently and economically use resources; 5) Dispute Resolution Forum—fairly and speedily resolve disputes brought before the courts. Would you keep the above dimensions and missions? What are some other dimensions and missions (e.g., Political Institution—to shape public policy)?

TAKE THIRTY MINUTES

Alternative Futures I: Different Courts, Different Clients

Resource Sheet

Objective: To help participants begin to re-vision and redesign courts; to challenge their ability to adapt to radically changed circumstances; and to develop participants' imagination and scenario-building skills. This exercise really asks people to accept the possibility that the future will be very, very different in many ways.

Time Requirements: 45 minutes.

Number of People: 4 to 6 people; the workshop breaks up into small discussion groups.

Material Requirements: At least one easel, flipchart pad, three or four different colored magic markers per small group, and masking tape. Handout: Scenarios 1-4.

Setup: Split people into working groups and ask each group to choose a recorder. This exercise goes much faster if people have had the opportunity to study the scenarios the night before. If not, you will have to allot some extra time for each group to read and review their assigned scenario. For your own preparation as facilitator, refer to *Alternative Futures for the State Courts of 2020*, referenced in Appendix E.

Potential Problems: The primary difficulty facilitators face with this exercise is the refusal of some participants to suspend their disbelief. Some participants will want to question how the scenario came into existence, or dispute specific details. Emphasize that appropriate behavior for this exercise is to accept the conditions described as given, and to imagine what it would feel like to work under those conditions, how they would play out in day-to-day details, and what adaptive responses participants could make as judicial professionals in that future. To enable participants to make this imaginative leap, you might informally canvas participants in advance to see if any of them are science fiction fans: they will grasp the gist of this exercise fairly quickly, and can help act as "tour guides" to the future.

Alternative Futures I: Different Courts, Different Clients

Exercise Summary

This exercise uses a foresight technique called **INCASTING**: imagining the specific details of a possible future based on a more general scenario description. Incasting begins with an array of possible futures: several different scenarios, all based on observed trends and emerging issues in society, the economy, technological innovation, the environment, and political activity. Descriptions of four different **POSSIBLE** futures have been distributed. You and your working group have been assigned **ONE** of those four scenarios. *IN USING SCENARIOS FOR THIS EXERCISE, IT IS IMPORTANT THAT YOU SUSPEND ALL DISBELIEF. DO NOT ASK HOW THIS FUTURE CAME TO EXIST; DO NOT QUESTION ITS FUNDAMENTAL ASSUMPTIONS: YOU HAVE AWAKENED TO FIND YOURSELF LIVING IN IT. WHAT IS IT LIKE?*

Each group should designate one person to act as your group's recorder. Imagine what the administration of justice and dispute resolution would look like in this future, and then answer the three questions below. Feel free to elaborate in specific detail, and to take details to their logical, if extreme, conclusions. Remember that some traditional roles and procedures may disappear entirely in this scenario. Some roles and activities may be transformed, existing in this future in an entirely new form. And this future may compel the creation of entirely new roles, forms, and functions in the fabric of the state courts. Exceed the boundaries of the present wherever you like: your suggestions only need to be logically consistent with the assumptions of the given scenario.

- **What are the major structural differences between courts in this scenario and present courts?**
- **How do the kinds of cases brought to court in this scenario differ from the kinds of cases you see currently?**
- **How would *your* professional role change given the assumptions of this future?**

Have your recorder highlight the key points of your group's discussion and be prepared to report back to the group as a whole.

TAKE FORTY-FIVE MINUTES

Alternative Futures I and II

Handout

Scenario 1

Global Transformation: 1990-2020

The world is dramatically different from the 1990s. The structure of economies, production of goods and services, employment, education, and even the national state system have all undergone fundamental shifts. We have become a global society, driven by values that have fostered cooperation, appreciation of diversity, and social justice. Technology has advanced the effectiveness of all sectors of the economy as well as in much of what we do in our homes. The old courthouse and courtroom with judge, bailiff, clerk, lawyer, plaintiff, and defendant have gone the way of the buggy whip, horse trough, and blacksmith a century and a half earlier.

But not only the courts changed—production and distribution of goods largely is automated. The national state system was transformed into a global society where governance issues are either planetary or local in scope and process.

Information access was accelerated: first, voice access and retrieval and finger-tip holographic display; then, voice translation and vision-activated, moving and interactive holographic display; and finally, multi-user, interactive life-sized holographic simulations, which can be copied onto a personal chip, reduced in size and plugged into the brain for repeated review and revision. This capacity led to changes in all areas of life and business.

Change in the courts was driven by many factors beyond technology. The first was the growing dissatisfaction with the "obsession with rights" in the adversarial system. More and more people in the 1990s had seen the adversarial system as essentially inhumane, completely inappropriate for most disputes, and certainly never intended for family and other interpersonal issues.

By the late 1990s, ACT (Alternative Correction Techniques) were the norm. Instead of training people to "stand up for their rights"—whether they were right or wrong—people came to accept mutual admission of fault and develop mutually acceptable solutions. Ultimately "Real Men" (and Women) are expected to have the personal resources and intelligence to solve their problems themselves; using a judge is seen as a last resort. Many offenses were decriminalized and people generally came to enjoy the difference, deviance, and diversity. Lawyering changed dramatically as the outcomes, success rates, or "batting averages" of individual lawyers and firms were widely shared among corporate and individual consumers of legal services. And since most traditional lawyers' services

were not cost-effective, only a handful of the best and most cost-effective trial lawyers remains.

Neighborhood justice centers feature banks of artificially intelligent (AI) expert systems for conflict resolution. Voice responsive interactive computers with one-quarter life-sized holographic display capabilities literally walk customers through a variety of resolution situations before assisting the customers in choosing the techniques that will enable them to solve their disputes—wholly without "live" human involvement. Many consumers prefer this method because the "machines" are so polite and forgiving and are never impatient, and they can be accessed from the user's home.

Highly specialized courts remain in which human experts interacting with AI expert systems and professionally trained mediators solve complex scientific, technological, economic, and environmental problems brought before them. Many of these are owned and run privately, but their decisions ultimately are subject to appellate review by the formal public-sector courts.

Scenario 2

Cultural Mosaic and the Multi-door, Multi-site Courthouse: 1990-2020

The late 20th century saw burgeoning interest in traditional culture, cultural politics, and cultural sovereignty. First tolerance grew; then there was even encouragement for the vast diversity possible in human social arrangements. Disintegration of old political structures in Europe and Asia into their traditional cultural subunits provided a major symptom of these trends and shifts in values. In the U.S., the rise of minority cultures and their new cultural awareness and pride led people to ask what productive advantages cultural differences offer. America moved from a "melting pot" nation to a "mosaic" or "rainbow." This was reinforced by the "quiet revolution" in legislatures, courts, and governors' mansions as officials became more representative of American diversity.

Coalitions of groups and individuals furthering the perspectives of feminists, native peoples, animals, some plants, and Earth itself successfully transformed national and international political systems in the Gentle Revolution of 2010, which followed the Great Coastal Flooding of 2005 and the Great Global Depression of 1993. The courts played an important role in these changes. Certain activities once tolerated—primarily those involving serious environmental pollution and the waste of scarce resources; or which made a few people excessively rich while many more became unnecessarily poor—were "criminalized." The new correction techniques mean that sanctions against polluters and robber barons came to involve severe social disapprobation, disgrace, restitution, and rehabilitation of the environment and almost never imprisonment.

The "judicial system" combines the ways traditional peoples have always solved their disputes with the ADR techniques that emerged in the 1970s and 1980s. Emphasis is placed on eliminating the social causes of crime (the greed-based "consumer" society of artificial wants, scarcity, and meaningless jobs) on one hand and on enabling people to solve their own problems with the help of their friends and neighbors, on the other. The "courthouse" is now a multi-door, multi-site institution, accessible from neighborhood justice centers, and even electronically from the home. Effective and user friendly services (including those typically provided by translators, cultural interpreters, social workers, lawyers, judges, architects, and accountants) are available from expert systems or humans around the clock.

Scenario 3

Hard Times, Generic Justice: 1990-2020

Hard times could best describe the 30 years since 1990. There were some good times but recurring severe recessions; racial, ethnic and age-related conflict; lack of adequate employment; insufficient and ineffective welfare policies; and environmental deterioration were endemic. As a consequence of bad economic, social, and environmental conditions, people increasingly became afraid, demanding more and more "protection" and ever more severe punishment of offenders. At the same time they were asking for more services. Yet governments were hard pressed to respond.

Governments, hobbled by debt and the poor economy, provided reduced levels of service. In the case of the courts, reduced service along with demands for more severe punishment led to a decline in adversarial rights. Swift, stern "generic justice" became the hallmark of most judicial systems—any more than this simply could not be afforded. The public feels that this justice is reasonably fair. Information technology did advance and provided more cost-effective ways to handle cases and to foster better ADR. Many courts also have introduced user fees: charges per minute of services, assessed to prosecutor and defendant alike.

The ability of computers to determine the probability that a claim would be found worthy in trials was demonstrated effectively for product liability cases. The computerized approach then spread to other types of cases, further assisting and simplifying decision making.

The limits on judicial discretion have discouraged people who are motivated to demonstrate leadership, wisdom, justice, and mercy from becoming judges. Determinant sentencing—even with enhanced alternative sentencing options—had made the bench a much less attractive seat, as has the elimination of parole and other limitations on judicial discretion. Indeed, at many points over the last 30 years, were it not for the fact that there were so many underpaid or unemployed lawyers in the first place, it is not clear that anyone would have chosen to become a judge.

Scenario 4

High Tech Growth: 1990-2020

The economy recovered from its doldrums of the early 1990s and returned to moderate growth, with only intermittent business cycle recessions. America was able to hold its own in the global market place. Technological change in all areas was profound over the 30 years between 1990 and today. Very sophisticated expert systems and advanced information networks have changed how education, health care, most professional services, and shopping are done. They are accomplished more swiftly, less expensively, need fewer people to provide them, and require less travel to obtain. Consumers are more satisfied with the results. Not everyone benefited equally from these advances. The combination of a market-driven society with ineffective and underfunded social welfare policies meant that the benefits came to those who could afford them first.

The courts were not technological innovators, but followed about five years behind the leaders. This only slightly slowed the changes that took place. For example, centuries of judicial decisions were collected on databases like WESTLAW and LEXIS and were fully relational. Expert systems regularly access these databases and develop accurate, legal, and convenient AJMs (Automated Justice Machines). Litigants can enter the facts of their case into an AJM or their home computer, and receive, at a fee set by JUSTFAST, "instant justice" based on the facts of similar cases previously decided by the courts. This is the most-used ADR process by far—in only a few states is this process "annexed" by the court. For court cases, simultaneous video translation and recording programs take the place of interpreters and court recorders. Rural residents now have the same access to justice as those in urban areas.

The pattern of problems brought to the courts evolved with the new technologies (e.g., computer fraud and terrorism, rights of robots, and "wrongful birth" suits by children who had not been genetically improved). However, the largest percentage of conflicts brought to the courts continued to be those associated with poverty, lack of meaningful roles in society, and the consequent resort to unlawful means to raise money or find meaningful roles, e.g., drug trafficking. The courts retained their historic role of resolving conflicts. Prevention was left to the executive and legislative branches.

Alternative Futures II: Judicial Headlines

Resource Sheet

Objective: To help participants re-vision and redesign the judicial system, identify critical issues in changed milieux, and develop their scenario-building skills.

Time Requirements: 30 minutes.

Number of People: 4 to 6 people; the workshop breaks up into small discussion groups.

Material Requirements: At least one easel, flipchart pad, three or four different colored magic markers per small group, and masking tape. Handout: Scenarios 1-4 from Alternative Futures I exercise.

Setup: Split people up into working groups and ask each group to choose a recorder. This exercise goes much faster if people have had the opportunity to study the scenarios the night before. If not, you will have to allot some extra time for each group to read and review their assigned scenario. For your own preparation as facilitator, refer to *Alternative Futures for the State Courts of 2020*, referenced in Appendix E.

Potential Problems: The primary difficulty facilitators face with this exercise is the refusal of some participants to suspend their disbelief. Some participants will want to question how the scenario came into existence, or dispute specific details. Emphasize that appropriate behavior for this exercise is to accept the conditions described as given, and to imagine what it would feel like to work under those conditions, how they would play out in day-to-day details, and what adaptive responses participants could make as judicial professionals in that future. To enable participants make this imaginative leap, you might informally canvas participants in advance to see if any of them are science fiction fans: they will grasp the gist of this exercise fairly quickly, and can help act as "tour guides" to the future.

Alternative Futures II: Judicial Headlines
(Use scenarios provided with Alternative Futures I exercise)

Exercise Summary

This exercise uses a foresight technique called **INCASTING**: imagining the specific details of a possible future based on a more general scenario description. Incasting begins with an array of possible futures: several different scenarios, all based on observed trends and emerging issues in society, the economy, technological innovation, the environment, and political activity. Descriptions of four different POSSIBLE futures have been distributed. You and your working group have been assigned **ONE** of those four scenarios. *IN USING SCENARIOS FOR THIS EXERCISE, IT IS IMPORTANT THAT YOU SUSPEND ALL DISBELIEF. DO NOT ASK HOW THIS FUTURE CAME TO EXIST; DO NOT QUESTION ITS FUNDAMENTAL ASSUMPTIONS: YOU HAVE AWAKENED TO FIND YOURSELF LIVING IN IT. WHAT IS IT LIKE?*

Each group should designate one person to act as your group's recorder. Your assignment is to draft three "future headlines" that succinctly and vividly express what justice and the courts are like in this future. Try to design a cover page for *Newsweek* in 2010 (or its functional equivalent); a banner headline for the *New York Times* in 2010 (or its equivalent); and a headline for your local newspaper. The adventurous may try their hands at a 2010 *New Yorker* (or its equivalent) cartoon.

Imagine what forms the administration of justice and dispute resolution would take in this future. Take details to their logical, if extreme, conclusions. Remember that some traditional roles and procedures may disappear entirely in this scenario. Some roles and activities may be transformed, existing in this future in an entirely new form. And this future may compel the creation of entirely new roles, forms, and functions in the fabric of the state courts. Exceed the boundaries of the present wherever you like: your suggestions only need to be logically consistent with the assumptions of the given scenario.

- **In what new activities does the court engage given this scenario?**
- **What new tensions/problems hamper court functions in this scenario?**

Be prepared to present your headlines and cartoons to the group as a whole.

TAKE THIRTY MINUTES

Removing Constraints on Visionary Thinking

Resource Sheet

Objective:	To help participants envision **positive** differences between the present and the future, and get past "yes, but . . ." thinking; it also hones team process and brainstorming skills.
Time Requirements:	15 minutes.
Number of People:	4 to 6 people; the workshop breaks up into small discussion groups.
Material Requirements:	At least one easel, flipchart pad, three or four different colored magic markers per small group, and masking tape.
Setup:	Split people into working groups, if they are not already, and ask each group to choose a recorder. Groups should quickly pick one exercise, and then attempt to generate ideas as fast and furiously as possible: brainstorming rules apply.
Potential Problems:	Groups may get bogged down choosing which of the listed exercises to attempt. If time is critical, assign an exercise to each group, or assign an exercise per table, and let participants divide themselves into working groups by choosing the table and exercise they prefer. Also, many of these exercises push thinking past logical extremes into the realms of the absurd. Encourage the outrageous idea whenever possible: an idea that has broken the bonds of convention, which is the point of this exercise.

Removing Constraints on Visionary Thinking

Exercise Summary

There are a variety of methods for generating visions. Many of these involve questions or exercises that remove constraints on current thinking about the judicial system.

Before developing a vision, it is important to imagine a different system. This often requires practice in removing current constraints to our thinking. Below are six such exercises. Choose one, and brainstorm to generate a list of the changes and impacts possible.

1. **Assumption Reversal**
   Start with key assumptions that underlie the judicial system, e.g., judiciaries react to changes in the law. Reverse the assumption and explore where it leads, e.g., "judiciaries are proactive."

2. **Constraint Removal**
   What is keeping the judicial system from being all it could be? Remove those constraints and explore where judicial systems might go.

3. **What Could Never Happen**
   Identify some changes that could never happen to the state courts, e.g., abolition of the adversary system. Imagine that they happen; what does it mean for the state courts?

4. **Best of All Worlds**
   If the judicial system and state courts were perfect what would they look like?

5. **Blank Sheet**
   Assume that you are designing a state court system from scratch. You have a blank sheet. What would you include in your design?

6. **New Metaphors**
   What new metaphors would describe an ideal state court system?
   Tomorrow is Today; Robo-Cop Presiding; Might is Right; Beam Me Up, Judge! (Automated Courts); Rent-a-Resolver; Legal Shopping Mall; High Tech/Super Surveillance; etc.

TAKE FIFTEEN MINUTES

Building Blocks for 21st Century Court System Design

Resource Sheet

Objective: To explore court uses of both social and technological innovations, and to help participants imagine the trade-offs that become necessary in choosing vision details.

Time Requirements: 15 minutes.

Number of People: 4 to 6 people; the workshop breaks up into small working groups.

Material Requirements: At least one easel, flipchart pad, three or four different colored magic markers per small group, and masking tape. Handout: *Building Block Descriptions.*

Setup: Split people into working groups, if they are not already, and ask each group to choose a recorder. Groups should quickly pick one building block, and then move rapidly around the circle gathering comments from each member on how the courts would change given the widespread use of the building block under discussion.

Potential Problems: Groups get bogged down choosing which of the listed building blocks to discuss. If time is critical, assign a building block to each group, or assign a building block per table, and let participants divide themselves into working groups by choosing the table and building block that interests them. Also, some people will attempt to engage in evaluating the building block; focus group discussion on *what the courts would look like* with widespread use of the building block, and what its *impacts* might be on the judicial system and wider community—without evaluating whether or not people like those impacts. Focus discussion on **describing** changes, not on evaluating them.

Building Blocks for 21st Century Court System Design

Exercise Summary

By the early 21st century, the design options for the courts will be broader. Many things will be commonplace then that are unfamiliar now. Below we describe several of these potential building blocks and provide assumptions about how they will be used.

Your vision should suggest a design for 21st century courts. These building blocks are tools you can use in your design for 21st century courts. For this exercise, pick one of these "building blocks," and explore how the courts might be different given its widespread use.

- Expert Systems
- Alternative Dispute Resolution
- Total Quality Management
- Litigation Leadership Development
- Prevention Strategies from the Courts
- Facilities Redesign: From the "Temple of Justice" to the "Holographic Courthouse"
- Sentencing/Alternative Correction Techniques
- Trial Court Performance Standards

TAKE FIFTEEN MINUTES

Building Blocks for the 21st Century Court System Design

Handout

Building Block Descriptions

1. Expert Systems

Definition

Expert systems originally evolved from protocols designed to structure responses to problems in very specific fields. Experts in a given field were identified by reputation, and asked to solve a problem "classic" for that field. Researchers observed how each expert went about analyzing the problem, developing a range of solutions for it, and testing those possible solutions. Content analysis identifies similar patterns across the field of expert methods, and summarizes and codes the master pattern into a computer program. Such a program leads users through problem analysis, offers a range of solutions, and suggests how the most appropriate solution might be chosen. Examples include the various decisions quality control workers make in accepting or rejecting a machine part, or the various patterns of symptoms doctors look for in diagnosing an illness.

Possibilities for Courts

Many judicial (and bureaucratic) decisions are very routine, requiring little discretion, either because of the force and clarity of the rules guiding them or the fact that so many cases are exactly the same that the expert develops some "rule of thumb" to deal with them quickly and equitably. These things can be routinized and put on computers, freeing judges to make the more difficult or unique decisions in situations requiring human judgment and/or compassion.

Assume that computer software, plugged into local, regional, or even international legal databanks, incorporates centuries of judicial decisions and the ability to model the standing of claimants in liability cases, analyzes determinant sentencing requirements, and enables same-day decisions on straightforward cases like traffic violations. The technology is easily decentralized, so it can be located at many sites convenient to the public throughout the state. The expert systems "show" clients through a variety of court, trial, or resolution situations in addition to assisting them in coping with their specific problem.

2. Alternative Dispute Resolution

Definition

Private alternative dispute resolution includes all techniques and processes used for resolving legal disputes outside of court, as well as procedures for cost-effective management of litigation and litigation prevention. The techniques range from personal counseling and mediation as part of family law matters, misdemeanors, and other small-scale disputes to more binding procedures used to resolve large, complex disputes involving businesses and public institutions: mini-trials, mediation, confidential listening, neutral fact finding, negotiation, arbitration, and private trials.

Possibilities for Courts

ADR offers a solution to the problem of case backlog, and often offers the two sides in a case or dispute a more satisfactory outcome, and one that is often able to salvage an ongoing, working relationship between disputants. Currently, it is used most often in settling child custody and visitation rights issues, but corporations also frequently have recourse to ADR to settle contract and tort cases. With the growing number of ethnic minorities in the United States, ADR also offers the opportunity for the justice system to be culturally sensitive, adopting or adapting dispute resolutions systems from other cultures. Furthermore, the ADR perspective puts more of the responsibility for getting out of disputes on the shoulders of *both* parties, and their surrounding community—rather than finding fault, the focus is to reestablishing a healthy, working relationship. A typical neighborhood dispute resolution center should have a staff that not only knows a variety of different dispute resolution techniques, but also has a deep understanding of the local community.

3. Total Quality Management

Definition

Total quality management (TQM)—an approach or "movement" in management that goes by many names with the word "quality" in them—relies heavily on the understanding and application of data, data-based methods, and the scientific approach drawn from the disciplines of statistics and classical logic that characterize the seminal work of W. P. Edwards Deming. A statistician by profession, Deming transformed Japanese industries by teaching them how to use the scientific method to improve the quality of their products. Data-based methods used in total quality management include flowcharts,

workflow diagrams, deployment charts, Pareto charts, cause-and-effect (fishbone) diagrams, operational definitions, stratification and is/is not analysis, time plots, control charts, dot plot and stem-and-leaf displays, check sheets, and scatter diagrams. Total quality management espouses principles of "quality" leadership including customer focus, all encompassing emphasis on quality, recognizing the structure in work, freedom through control, unity of purpose, looking for faults systems, teamwork, and continued education and training.

Possibilities for Courts

Assume that total quality management approaches are well used by the courts, giving courts the ability to assess their work flow and its quality, including the outcomes from the consumers' or users' perspective. Court personnel are sufficiently enthusiastic about their work, in part because of the motivation of their vision, to make continuous improvement a reality.

4. Leadership Development

Definition

Courts traditionally have seen themselves as reactive and passive, addressing whatever cases happen to come before them, and rendering a decision concerning guilt or innocence by reference to the facts and the law only. Increasingly, regardless of their political ideology, courts have found they have had to become more active as a branch of state government, exercising leadership where other political figures have not. Developing the skills to answer this need will require a wider training than judges currently acquire or are required to have: better understanding of management, social trends and social pathologies, technological innovations, diverse cultures, and a variety of dispute resolution techniques. With the pace of change constantly increasing, such training for leadership will have to be an ongoing process.

Possibilities for Courts

Assume that courts, judges, and administrators make a commitment to ensure a high level of leadership development. Assume also that this movement toward greater leadership in the courts is aided by increasing numbers of women and ethnic and racial minorities on the bench. Judges will feel a greater responsibility for the underprivileged, and demonstrate greater personal interest in and responsibility for individual cases. Judges will be more likely to follow cases through, and to become involved with initiatives in the

other two branches of government that will aid prevention or amelioration of conditions leading to certain kinds of cases. Leadership development also assumes reform measures in the continuing education and certification of judges, with sufficient training of judges as managers, planners, and technologists. These trends lead to judges taking a much stronger role in government overall, but particularly with regard to social programs that reduce criminal and civil caseloads.

5. Litigation Prevention Strategies from the Courts

Definition

Traditionally, courts have looked only at determining guilt or innocence in actual cases and controversies brought before them. However, over the years, whether from a liberal, conservative, or other ideology, courts have felt the need to look into the causes of crime or controversy, and ways to reduce or eliminate crime or controversy from ever happening. Knowing full well that landmark decisions affect policymaking, it is well within the bounds of the judicial role to attempt to change social conditions for the better.

Possibilities for Courts

Assume that increased follow-through on cases leads to increased use of judicial authority to oversee or enforce the regulations on many social issues. Examples include housing programs for the homeless, job training for welfare fraud cases, and nonpunitive rehabilitation programs for drug users. Some courts prosecute state legislatures or executive agencies for not following through with court-ordered changes. Judicial doctrine shifts, giving more weight to community "rights."

6. Facilities Redesign: From the "Temple of Justice" to the "Holographic Courthouse"

Definition

The architectural, costume, and ritual design of the U.S. court system owes much to the British judiciary, and in turn to the British monarchy: the use of the word "court" stems directly from the days in which justice was entirely the purview of the king (or, more rarely, the queen). Built into the design of judicial robes, the bench, the witness stand, and the jury box are assumptions about lord/vassal relations, about leaders and

decision makers being the anointed representatives of God, and a variety of other concepts that serve to alienate the defendant and the plaintiff from the judge, jury, and court staff. The entire process is intimidating for some people and in many ways foreign to current American culture—much less the many immigrant cultures that tend to be overrepresented in court.

Possibilities for Courts

Assume that the physical situation of courts and courthouses improves, not in expensive ways, but in ways that make them more user friendly. But also assume that the "place" function of the courts is altered radically in many jurisdictions. The "holographic courtroom" becomes feasible with broadband communication capability in homes and offices. Communications technologies, expert systems, and simulations allow a variety of ways to have plaintiff, defendant, judge, and jury interact. Expert systems allow the time spent to be most effectively used.

7. Sentencing/Alternative Correction Techniques

Definition

Alternatives to incarceration fall into two groups: those that divert the convicted person prior to incarceration and those that provide for early release; they often occur in conjunction, e.g., intensive probation supervision and electronic monitoring. While alternative sentencing has occurred at judges' discretion, it is also increasingly supported by more broadly based legislative and executive initiatives. Alternative correction techniques include intensive probation, a highly structured and supervised probation program; electronic monitoring, which monitors the offender via an electronic "tag," usually a bracelet; "shock" or "impact" incarceration, which features hard labor under military discipline; diversionary drug and alcohol treatment programs; community service; restitution and fines; and early release.

Possibilities for Courts

Assume that a variety of sentencing responses exist to respond to massive overload in correctional facilities. Beginning with privatization of some corrections facilities, the alternatives also include community-based options such as restitution, community service, intensive supervision, electronically monitored house arrest, as well as fines, prison "boot camp" or shock incarceration, privatized corrections institutions, and CCC-type work programs/work camps focussed on environmental cleanup/improvement.

8. Trial Courts Performance Standards

Definition

The Trial Courts Performance Standards (TCPS) are a set of 23 items in five areas that identify what trial courts should be doing.

1. *Access to Justice*
   - 1.1 Public Proceedings: The court conducts its proceedings and other public business openly.
   - 1.2 Safety, Accessibility, and Convenience: Court facilities are safe, accessible, and convenient to use.
   - 1.3 Effective Participation: All who appear before the court are given the opportunity to participate effectively without undue hardship or inconvenience.
   - 1.4 Courtesy, Responsiveness, and Respect: Judges and other trial court personnel are courteous and responsive to the public and accord respect to all with whom they come into contact.
   - 1.5 Affordable Costs of Access: The costs of access to the trial court's proceedings and records—whether measured in terms of money, time, or the procedures that must be followed—are reasonable, fair, and affordable.
2. *Expedition and Timeliness*
   - 2.1 Case Processing: The trial court establishes and complies with recognized guidelines for timely case processing while, at the same time, keeping current with its incoming caseload.
   - 2.2 Compliance with Schedules: The trial court disburses funds promptly, provides reports and information according to required schedules, and responds to requests for information and other services on an established schedule that assures their effective use.
   - 2.3 Prompt Implementation of Law and Procedure: The trial court promptly implements changes in law and procedure.
3. *Equality, Fairness, and Integrity*
   - 3.1 Fair and Reliable Judicial Process: Trial court procedures faithfully adhere to relevant laws, procedural rules, and established policies.
   - 3.2 Juries: Jury lists are representative of the jurisdiction from which they are drawn.
   - 3.3 Court Decisions and Actions: Trial courts give individual attention to cases, deciding them without undue disparity among like cases and upon legally relevant factors.
   - 3.4 Clarity: Decisions of the trial court unambiguously address the issues presented to it and make clear how compliance can be achieved.
   - 3.5 Responsibility for Enforcement: The trial court takes appropriate responsibility for the enforcement of its orders.

3.6 Production and Preservation of Records: Records of all relevant court decisions and actions are accurate and properly preserved.

4. *Independence and Accountability*
   - 4.1 Independence and Comity: A trial court maintains its institutional integrity and observes the principle of comity in its governmental actions.
   - 4.2 Accountability for Public Resources: The trial court responsibly seeks, uses, and accounts for its public resources.
   - 4.3 Personnel Practices and Decisions: The trial court uses fair employment practices.
   - 4.4 Public Education: The trial court informs the community of its programs.
   - 4.5 Response to Change: The trial court anticipates new conditions or emergent events and adjusts its operations as necessary.
5. *Public Trust and Confidence*
   - 5.1 Accessibility: The trial court and the justice it delivers are perceived by the public as accessible.
   - 5.2 Expeditious, Fair, and Reliable Court Functions: The public has trust and confidence that the basic trial court functions are conducted expeditiously and fairly and that its decisions have integrity.
   - 5.3 Judicial Independence and Accountability: The trial court is perceived to be independent, not unduly influenced by other components of government, and accountable.

Possibilities for Courts

Assume that the Trial Court Performance Standards act as an integral part of courts' strategic/anticipatory management system. Using the standards and their accompanying observations/measures guide, state courts define their vision in very practical terms and monitor their progress in achieving it. The standards are not meant to incite competition among courts; the standards are meant to encourage each court to attain its best performance. The Trial Courts Performance Standards do encourage and support a *customer-orientation* in court design, reorganization, and transformation.

Personal Vision

Resource Sheet

Objective: To allow participants time to articulate and express the characteristics that make a court system the best it could be from their perspective; to identify the purpose, program, and participants of a desirable court system of the future.

Time Requirements: 60 minutes.

Number of People: Individuals; for this exercise, participants work on their own, focusing on their own hopes and dreams for the judicial system.

Material Requirements: Each participant will need a sheet of newsprint and several colors of magic markers.

Setup: Tell everyone to find a comfortable seat; a comfortable corner of the floor; a place to lie down, close their eyes, and visualize; or whatever environment they need to let their imaginations run riot. Reinforce the idea that they should express their idea of the best the courts can be: a plausible ideal for the judicial system. Briefly remind them of the emerging trends, the array of alternative futures possible, and the ideas they generated in removing constraints on their thinking. Explain that appropriate behavior in this exercise is getting "out far enough"; inappropriate behavior is "not out far enough." And encourage people to draw!

Potential Problems: Judicial professionals are very verbal. Many will express themselves in terms of lists, organizational charts, or other collections of words. If you have time, try a "warm-up" drawing exercise: give everyone an extra sheet of newsprint and take five minutes to practice drawing straight lines, squiggly lines, circles, squares, triangles, and stick figures.

Personal Vision

Exercise Summary

Begin by visualizing: what image(s) best sums up your ideal configuration for the administration of justice? How would you draw the relationship among people involved in your ideal justice system? Be abstract or representational as the mood strikes. And remember, *in this workshop, EVERYBODY can draw!* We all can draw circles, arrows, triangles, boxes, stick figures, sunshine, doors, etc. Use what you can to express your ideals graphically.

After you have drawn something, *then* resort to words to clarify and add details to your ideal justice system. Remember, you are trying to convey your goals, your dreams, and what you would most like the administration of justice to be and to achieve.

You might begin by asking yourself the following questions. In your vision for the future of the courts and justice:

- **What are the three most critical *values* embodied by this visionary system?**
- **What is the *primary goal* of justice in your vision?**
- **Who are the *primary beneficiaries* of this visionary justice system?**
- **How are people *involved in administering justice* in this vision?**

TAKE SIXTY MINUTES

Group Vision Development

Resource Sheet

Objective: To work with other people identifying common themes across individual vision statements, agree on related details, and work together to clarify and expand those details.

Time Requirements: 75 minutes.

Number of People: Initially, 4 to 6 people (the workshop in small discussion groups); when synthesizing a community vision for the workshop as a whole, you essentially repeat this exercise with each small group reporting as an individual.

Material Requirements: Per working group, an easel with newsprint; a **large** sheet of butcher paper, three- or four-feet wide by six- or seven-feet long; one or two full-spectrum sets of water color magic markers; pens or pencils and two post-it pads; and masking tape.

Setup: This works very well in one **very large room**, say a ballroom or auditorium. With four working groups, assign each working group its own corner. People should hang their individual vision images on the walls of their corner, creating a "vision gallery." The group's recorder should position the easel so that he or she can easily listen as people explain their visions, and jot down notes about common themes.

Potential Problems: Six people can complete this within 75 minutes; with large working groups, you will need to schedule more time, say an extra 15 minutes per every two people you add above six. Political agendas and institutional infighting can potentially surface in this exercise; assign participants with a long history of enmity or adversarial relationships to separate working groups. Encourage the group to be sensitive to the wide variety of people's perspectives, concerns, and goals: the creative problem for this exercise is restating or reconfiguring vision details that seem to conflict until they can work side-by-side.

Group Vision Development

Exercise Summary

Prerequisite: Completion of Personal Vision Exercise

Step 1. Share Visions.
Choose a group recorder. Then start by sharing the personal vision statements drafted by participants in your group. One by one, describe/portray/pantomime your visions for the rest of your group. As you work your way around the group, look for themes or components common across the personal visions. Have your group recorder note down common themes and components. TWENTY MINUTES

Step 2. Identify Common Elements.
After everyone finishes presenting, the group should have a sense of the common elements. Do you all agree that these ARE common elements? Is everyone comfortable with the list as written, or would people like the opportunity to cull some items via a straw vote? TEN MINUTES

Step 3. Devise an Overall Structure.
After everyone is satisfied with the common elements list, tape a large (3' x 7' or 4' x 6') piece of butcher paper to the wall, and break out the magic markers again. Discuss ways in which the common elements might fit together. Try to arrange them to form the outline of your vision. Or, to escape the linear, arrange the common elements as the hub and spokes of your vision. Use whatever geometry makes the most sense to your group. FIFTEEN MINUTES

Step 4. Fill in Details.
Near each common theme, display specific ideas the group as a whole finds compelling. Grab ideas/images/phrases you loved from other people's work, or start from scratch, sketching pictures/diagrams/cartoons near each common theme. Map out your vision, connecting the sketches and diagrams with lines and, where necessary, words to indicate the relationship of the common elements to each other. What key components of a justice system are still missing? What visual details can you add to your sketch that clarify your group vision? FIFTEEN MINUTES

Step 5. Review; Critique; Adjust.
Now let everyone step back and review the rough draft. If anyone in your group wants to question or object to any vision element, have them jot their question or objection down on a 2" x 2" post-it and stick it directly onto the vision mural. Then discuss the objections and questions one by one. Work to negotiate clarifications or qualifications until all the post-its have been removed from the vision mural. FIFTEEN MINUTES

From Here to There: Necessary Precursor Events

Resource Sheet

Objective: To focus participants on designing logical links between the present and the vision they have created, and to enhance group problem-solving and brainstorming skills.

Time Requirements: 45 minutes.

Number of People: 4 to 6 people; the workshop breaks up into small working groups.

Material Requirements: For each working group—an easel with flipchart pad; magic markers; one large (3' x 5') sheet of butcher paper; masking tape; and post-it pads.

Setup: Split people into working groups, if they are not already, and ask each group to choose a recorder. Participants should hang their large piece of paper on the wall at an easily accessible height. The group should quickly begin brainstorming their precursor events with the recorder jotting events down on the easel. After 15 or 20 minutes, the group should draw its timeline, and then arrange the precursor events by jotting them on post-it notes and temporarily sticking them on the timeline. When events are arranged to everyone's satisfaction, participants can write them permanently in appropriate positions on the timeline.

Potential Problems: Conceptually, this exercise is quite difficult: working backwards is an unaccustomed mode for most people. The key question is, "What do we need to do before our goal of *X* can occur?" The best help is a good example; if you have a long-range plan from a local community group, illustrate with the ladder of tactics and strategies the local group has mapped out to reach one of its goals. If not, use the Apollo moon landing itself: before landing a man on the moon, men had to orbit the moon; in order for that to happen, we had to calculate trajectories, planetary orbits, and effective speeds; we had to build a space ship that could both orbit and land; we had to get that space ship from earth to orbit, and hence had to build a rocket capable of carrying it; in order to build that rocket, we had to design it; in order to design it, we had to organize and hire engineering teams; in order to hire engineering teams, we had to allocate government funds; in order to have funds to allocate, we had to convince Congress to vote for the project; etc.

From Here to There: Necessary Precursor Events

Exercise Summary

This exercise has two steps: (1) imagining the precursor events that are required to realize the vision of the courts you've developed; and (2) arranging them on a timeline that spans the gap from your idealized vision back to the present.

(1) You have described in detail your vision for the future of your court. Now you need to connect that vision to your current circumstances. You can do that by engaging in what is sometimes called "Apollo" forecasting: working backwards from ideal state or an imagined goal to the present. Look at the specific components of your vision. Next, ask yourself what event or condition must occur or exist before each vision component can become reality. List those events and conditions. Now ask yourself what in turn must exist or occur to bring about those precursor events and conditions. Continue this precursor brainstorming for 30 minutes.

(2) Draw a timeline. Arrange your precursor events along the timeline in a logical fashion, with those immediately necessary for the vision 20 or so years out, and the items that build up the conditions necessary to achieve the vision closer to the present. Items closest to the present should be plausibly achievable within the next 5 years.

TAKE FORTY-FIVE MINUTES

Where We Can Start

Resource Sheet

Objective: To identify resources, allies, and action settings that will contribute to achieving the foundation of the vision; to outline initial objectives and next steps in building the vision.

Time Requirements: 30 minutes.

Number of People: The entire workshop, or small working groups of 4 to 6 people.

Material Requirements: For each working group—an easel with flipchart pad; magic markers; masking tape.

Setup: This exercise is basically four related brainstorming exercises. It will work with the workshop as a whole, if you have two recorders to alternate jotting ideas down. In small working groups, one recorder for each group will suffice. Remind participants to focus on programs, activities, resources, and people that are already related to, or interested in, the vision goals: this exercise helps jump start progress toward the vision by identifying immediately useful resources for vision building.

Potential Problems: This exercise requires people to come back down to earth after energizing themselves in the realms of the ideal. This is also the point where all the "yes, but . . ." mindsets, if they have been restrained during the rest of the workshop, will burst their restraints. Encourage people to focus on positive resources, by asking them what successes they have had in the past in similar areas of work: who supported those successes? what resources made past successes possible?

Where We Can Start

Exercise Summary

Your group now has a sketch for a vision of the best your courts can be. You may also have a timeline that suggests precursor events or conditions required to achieve that vision. From either your vision or the timeline, choose a component or condition that seems plausibly achievable; consider it a goal. What resources can your group marshall to reach it? Brainstorm to identify resources in the following areas:

Action Resources
What current programs, projects, research, or innovations could you adapt to produce that precursor?

Program Resources
Are any funds, staff, or equipment already in use for similar purposes? Are any special project funds available that you could tap? Any volunteer groups already working in similar areas?

Allies
Who can help by participating, legitimating, rallying support?

Governor, Mayors, County Administrators?
Legislature, City Council?
Chief Justice, Affiliated Justices, Court Staff?
Bar Association, Professional Associations?
Prisoners, Social Service Agencies, Advocacy Groups?
Public Interest Groups, Media?

Action Setting(s)
Where could you most effectively work to create this required precursor?

Courts, Federal Government, State Government, City and County Governments, Schools, Churches, Volunteer Organizations, Jails, At Home?

Summarize your resource list and report back to the group as a whole. The facilitator will compile a list of suggested goals and resources.

TAKE THIRTY MINUTES

What We Can Do Now

Resource Sheet

Objective: To list the actions that participants could actually take to achieve the initial vision objectives, estimate the time it might take to complete those actions, and ask for participant commitment to specific actions.

Time Requirements: 45 minutes.

Number of People: The workshop as a whole, or small working groups of 4 to 6 people.

Material Requirements: For each working group—an easel with flipchart pad; magic markers; masking tape.

Setup: This exercise is basically four related brainstorming exercises. It will work with the workshop as a whole, if you have two recorders to alternate recording the ideas. In small working groups, one recorder for each group will suffice. This exercise focuses the ally/resource/action-setting questions of the "Where We Can Start" exercise down to the level of the individual participant. You are asking them to commit to building the vision. This is best done after the workshop participants have had the opportunity for one major reflection period discussing the draft vision.

Potential Problems: People may be reluctant to commit to working on building the vision, or even refining it more. If this is the case, it is because unresolved tensions, questions, or disagreements remain from the group vision exercise: you need to revisit "Reviewing; Critiquing; Adjusting" the vision until everyone is comfortable with it—or at least enough people are comfortable that they will set a leadership example by offering commitment to next steps. Some people simply will not commit at this stage, and you should not expect it of every participant.

What We Can Do Now

Exercise Summary

Review the draft vision. You may also have a timeline or a goals/resources list. As an individual, jot down a list of immediate actions you can take that would support creation of the vision as a whole; of a specific vision component; or support achievement of an identified goal. Estimate when you could begin, and how many hours per month it would take to follow-through.

Action	Start Date	Hours per Month

Take fifteen minutes. Review your list; which of the possible actions would you *most enjoy* doing? Which could you achieve most quickly? Using whatever criteria you like, pick one action you are willing to undertake for the sake of creating your vision.

The facilitator will compile a list of names, activities volunteered, and estimated start dates. To complete the exercise, the group as a whole should devise a way to monitor progress toward the vision, e.g., meeting again in a month and reporting back on actions taken.

TAKE FORTY-FIVE MINUTES

Identifying Side Effects

Resource Sheet

Objective: To identify possible side effects of potential external changes and of designed changes; to identify the possible benefits and disadvantages of changes in the judicial system, and for whom; and to stimulate discussion and evaluation of vision details.

Time Requirements: 30 minutes.

Number of People: 4 to 6 people; the workshop breaks up into small working groups.

Material Requirements: For each working group—an easel with flipchart pad and magic markers.

Setup: Split people into working groups, if they are not already, and ask each group to choose a recorder. As the group brainstorms potential side effects of implementing the vision, the recorder lists them, leaving room next to each for a benefits/harms entry. Another group member can tape each sheet to the wall as it is generated. After the group has listed possible impacts, then review each impact to consider whom it benefits or harms. Focus the group discussion on trade-offs among the details that compose the vision: which vision element does the most good for the most people? What are the potential side effects of the elements most critical to the vision, and whom do they affect most?

Potential Problems: This exercise helps explore the political pitfalls of the changes the vision suggests. As such, it will elicit political agendas, philosophical differences, and long-buried disagreements. Remind people to value alternative perspectives and be considerate to different points of view: use this exercise to map out where all the possible political, economic, and philosophical pitfalls are for implementing the vision.

Identifying Side Effects

Exercise Summary

Given a design that fits with a vision, it is relevant to explore the unintended consequences, the side effects of the various actions that would make up the design.

There are several options for accomplishing this task. Two of these options are presented in the exercises on "Futures Wheels and Cross-impact Matrices." Another is to simply develop a mental image of how the design would be put into place. Ask yourself who would benefit or be harmed by it. Some of this benefit or harm might be appropriate or acceptable, but for that which is undesirable, consider what actions might be taken to mitigate the negative consequences.

Beyond the persons who might be affected, what other side effects might accompany your design?

Brainstorm about this in the small group. If there is sharp disagreement on particular side effects or how to mitigate them, note that in your report.

TAKE THIRTY MINUTES

Futures Wheels

Resource Sheet

Objective: To explore the primary, secondary, and tertiary side effects of a single design change within the judicial system, and to enhance brainstorming skills.

Time Requirements: 45 minutes.

Number of People: 4 to 6 people; the workshop breaks up into small working groups.

Material Requirements: For each working group—an easel with flipchart pad and magic markers. Handout: *Futures Wheels.*

Setup: Split people into working groups, if they are not already, and ask each group to choose a recorder. As the group brainstorms potential side effects of implementing the vision, the recorder jots them down. Suggest that each first-order impact be given its own sheet of newsprint, and taped to the wall. As this exercise asks participants to consider multiple consequences of change, each group might want to limit itself to only three primary side effects. The group can then build a futures wheels for three primary side effects on three sheets of newsprint.

Potential Problems: This exercise is conceptually difficult for some. Have people review the sample futures wheels carefully, and be generous with time for questions. This exercise helps explore the outlying consequences of the design changes that the vision suggests for the judicial system. Remind people that their lists of primary, secondary, and tertiary effects should contain both positives and negatives, as people tend to focus on one to the detriment of the other: both are important in long-range planning. This is *not* an appropriate exercise for generating logical extremes: it is a think piece to remind people that long-range plans need to monitor the impacts of change and include provisions for mitigation and adjustment.

Futures Wheels

Exercise Summary

Building a **futures wheel** is a two-part exercise: it begins with a free-wheeling, wide-ranging brainstorming session, and then requires participants to categorize and order the ideas that emerge into a logical, albeit not linear, structure. This process may then be repeated to add a layer of secondary impacts, and again for tertiary impacts.

Step One

Identify which possible court policy change or structural change you wish to consider. Participants should then take a few minutes to jot down their speculations about possible impacts of that change. As with any brainstorming session, these ideas should all be suggested to the group as a whole and recorded on wall notes.

Step Two

Taking a fresh sheet of paper, the recorder writes the initial change action down in the center. Looking at the list of possible impacts, participants should decide which are ***immediate*** consequences of the suggested policy or structural change. The recorder arranges these immediate consequences around the original change action in a roughly circular pattern. Each first-order consequence, or primary impact, will give rise to consequences or impacts of its own. Some of these may already have been suggested by the group on the initial list; extend the wheel as far as possible, then brainstorm again to come up with more secondary impacts, and to begin thinking about tertiary impacts. See Handout.

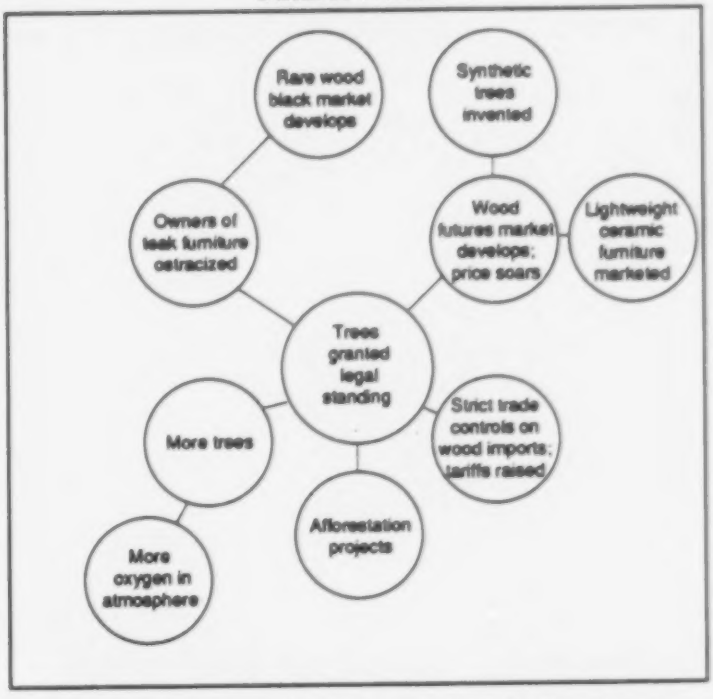
Arranging the possible impacts into quadrants according to issue helps participants work through not only how they might qualify the suggested change, but also what policies or actions they might suggest to mitigate negative impacts. See Handout.

TAKE FORTY-FIVE MINUTES

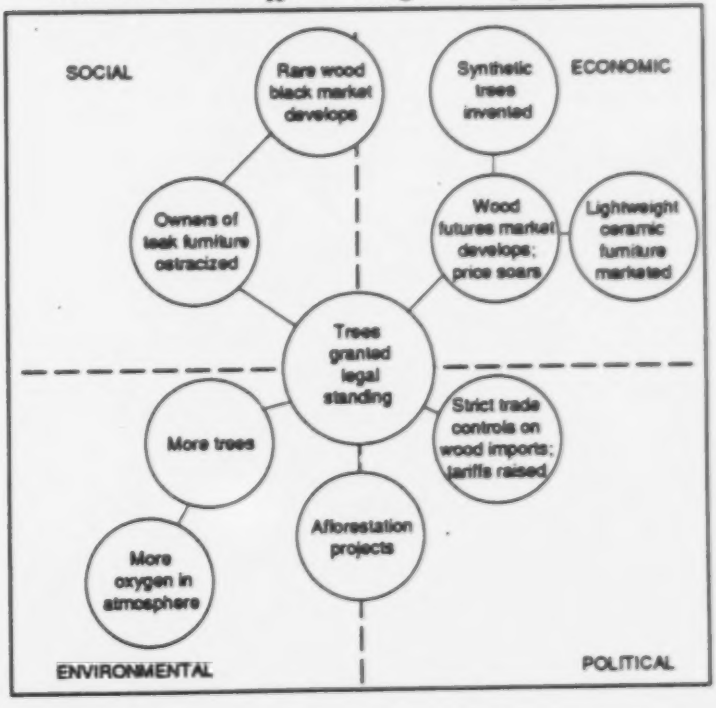
Futures Wheels

Handout

Futures Wheel


Rare wood black market develops
Synthetic trees invented
Owners of teak furniture ostracized
Wood futures market develops; price soars
Lightweight ceramic furniture marketed
Trees granted legal standing
More trees
Strict trade controls on wood imports; tariffs raised
Afforestation projects
More oxygen in atmosphere

Futures Wheel: Effects Categorized by Quadrant



BEST COPY AVAILABLE

Cross-impact Matrix

Resource Sheet

Objective: To consider several components of change or actions simultaneously and identify their possible cumulative impacts; to stimulate discussion on the consequences of potential external change as well as designed change.

Time Requirements: 60 minutes.

Number of People: 4 to 6 people; the workshop breaks up into small discussion groups.

Material Requirements: For each working group—an easel with flipchart pad; magic markers; masking tape; a large sheet of butcher paper; and post-it pads. Handout: *Cross-impact Matrix.*

Setup: Split people into working groups, if they are not already, and ask each group to choose a recorder. Encourage the group to quickly choose what they think are the most interesting changes implied by the vision—the recorder will list the suggestions. Participants should pick three key changes, and construct a matrix like the example on the worksheet. Discussion should focus on generating the impacts that arise when two changes interact, as represented by the different boxes in the matrix.

Potential Problems: This is also a conceptually difficult exercise for some. Have participants review the sample matrix carefully, and be generous with time for questions. Emphasize that change does not occur in a vacuum; this exercise allows participants to consider how changing the structures of reality will change the impacts of their vision on the judicial system and the community.

Cross-impact Matrix

Exercise Summary

Filling out a **cross-impact matrix** assumes first that you have identified an array of possible events or trends in social change. The goal is then to consider not just the primary, secondary, or even tertiary impacts of those events, but to explore *cumulative* impacts: how do two or more innovations, occurring simultaneously, reinforce or cancel each other?

Begin by choosing two or three changes or events that you wish to consider in concert. Arrange these in a matrix, as follows. Filling the diagonal cells with the most probable first-order impacts of each change or event helps maintain focus while working on the rest of the cells.

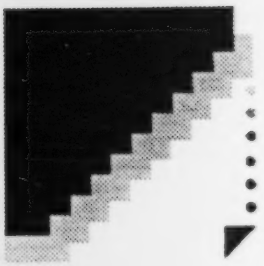
Remember that the x-axis of the matrix represents the independent variable: the trend or event as change agent. As you work across, ask yourself how the event or trend in Row A will affect the trends or events in Columns B and C.

TAKE SIXTY MINUTES

Cross-impact Matrix

Handout

	Trees Have Legal Standing	**Remote Sensing for Natural Resource Policing**	**Industrial CO^2 Emissions Rise**
Trees Have Legal Standing	greater preservation of forests	more investment in forest-monitoring systems	*net* CO^2 additions to atmosphere lowered
Remote Sensing for Natural Resource Policing	easier to monitor forest reserves in remote areas	heightened protection of scarce resources and endangered species	infrared and mass spectroscopy monitoring of industrial emissions
Industrial CO^2 Emissions Rise	trees grow larger, more prolifically	political concern over environmental change funds; expanded space-sensing program	greenhouse effect enhanced; changed weather patterns; sea level rise



Appendix C

Examples of Court Descriptions: Florida's Sixth Judicial Circuit Oregon State Courts

*Florida's Sixth Judicial Circuit**

Overview

Florida's state courts system consists of the supreme court, five district courts of appeal, 20 circuit courts and 67 county courts. It is divided by statute into 5 appellate districts and 20 judicial circuits. Pinellas and Pasco Counties comprise the Sixth Judicial Circuit of Florida. The number of judges serving each court is provided by general law, with the exception of the number of supreme court justices, which is fixed at seven by the state constitution.

The supreme court is authorized by the constitution to recommend changes in appellate districts and judicial circuits, and to recommend the number of judges in the appellate districts, judicial circuits, and the county courts. Such recommendations are certified to the legislature before its regular session each year. The legal jurisdiction of the circuit and county courts is provided by general law and is applied uniformly through the state.

In 1991, there were 421 circuit court judges in the state. Thirty-five of these are judges in the sixth circuit. The sixth circuit has almost 200 employees, of which judges, judicial assistants, and law clerks are most of 120 state-funded employees, and about 80 staff positions are supported by county funds. The operating budget in 1989-90 was $7.6 million dollars: a 300 percent increase from the early 1980s. During that same interval, circuit case filings increased by almost 40 percent, but the number of circuit judges increased by less than 20 percent.

During 1991 there were 770,939 circuit-court case filings in the state. Of these, 65,048 were received in the sixth circuit. The average circuit judge in Florida received 1,831 new filings in 1991. 1,858 such filings were received by each judge in the sixth circuit. In 1982, sixth circuit judges were processing an average of 1,675 new filings each.

Caseloads are increasing, staff resources are not keeping up, and budgets in the upcoming years are forecast to be zero growth—but increased court efficiency has so far made up the difference. Much of this may be attributed to the sixth circuit's aggressive attitude towards

* This example was excerpted from material compiled by Sixth Judicial Circuit court staff and from interviews with judges and staff. Mahalo nui loa.

innovation: it was the first court in Florida to automate (1986). This attitude has been supported by the county administration. The county government is statutorily mandated to support the courts, and has contributed to court budgets. The county has been willing to invest funds to move the sixth circuit to the forefront of judicial technology use: the circuit is probably near the top nationally. The sixth circuit uses imaging, dial-in docketing, offices linked across a widespread jurisdiction via a MacIntosh local area network computer/communications web. Sixth circuit data storage and retrieval is also linked with that of the county courts.

This aggressive push into telecommunications and data technologies was very probably the result of an implicit vision of a better court promoted by energetic and concerned judicial administrators in the early 1980s. Having achieved one set of goals for the circuit's future, it is time to take stock, identify the challenges courts will face in the 90s and beyond, and build consensus about goals for the circuit court.

Challenges Facing the Sixth Judicial Circuit

In the 1990s, resources will be scarcer: the circuit court is facing a practical budget cut in the upcoming no-growth budget. This raises the question of whether the old models of justice are still valid in the face of changed social and financial contexts. As legislators are increasingly unwilling to fund to new prisons, sentencing becomes problematic. The county has been generous in the past, but will itself face budget shortages in the coming decade. Increased use of mediation, dispute resolution, and pro se litigation might prove one solution to resource shortfalls, but many lawyers and judges see competition and challenge in the growth of such systems.

Other concerns voiced by judicial professionals and staff include the great difficulty in making clear to the rest of the government and to the public that the judiciary is not merely another agency of government, it is another branch of government. Historically, courts are more isolated from the public, which has in the past offered some protection against the vagaries of public opinion and its influence on funding, but perhaps these challenges call for greater public involvement—or at least greater public knowledge.

The increasing popularity of customer-oriented management will highlight more and more the need for judicial performance evaluations. This, in turn, means that we must somehow define what we mean by *justice*, by *user-friendly court*, and by *high performance*. Many voices are calling also for improved civility and ethics in the practice of law. Users today have no recourse in the face of incivilities perpetrated by the bar.

Social challenges also abound. With what some people see as the demise of morality in our culture, the courts seem more and more to be making decisions formerly made by the church: the right to die, the right to raise children, etc. The erosion of values combined with anxiety

about the weakness of the economy results in public dissatisfaction and alienation, which will find its way into the courts. More and more that dissatisfaction will involve cultural clashes as American society grows increasingly multicultural.

Emerging Challenges

Yet the changes occurring today are nothing compared to the changes that continued innovation will bring to justice systems. Video technology will grow enormously as the single-chip video camera is marketed in the early 90s. Cameras that cost under $20 will permit video hearings to become reality. Attorneys, witnesses, defendants, and jurors will be able to participate in a trial without going to the courthouse. The record of a trial and depositions will be recorded via video in the immediate future.

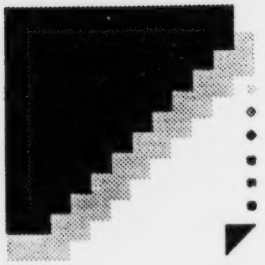
Cellular telephone technology costs will diminish. Every person will carry a cellular phone in the next ten years. Police agencies will use this technology to transmit information from crime scenes and to process information about traffic tickets, parking tickets, and citations. The integration of metallic strips on driver's licenses, automobile registration cards, and credit cards will allow the recording of information about persons without data entry.

Computers in courtrooms will permit docket entries, orders, and judgments to be signed by judges as events occur. Statewide data networks that will allow courts to communicate across large data files will aid courts in the resolution of cases. E-mail and information will be available instantaneously. Voice response systems will allow attorneys to schedule hearings with judges. Interactive TV will permit citizens to pay fines, register to vote, or seek court information from home.

Progress in mind-computer linkage will be extraordinary as applications from medicine are used for other purposes. Machines exist now that can ascertain yes/no responses from humans. Mind-computer linkage will mean that information will be able to be retrieved as if such information were stored in the brain. Truth machines will emerge. Trials will no longer be necessary to determine guilt or innocence. Judges will routinely use computers in making decisions regarding such things as alimony, child support, sentences, and bonds.

Holographs will replace CRTs as computer monitors. Images will be used for primary communication in the future. "Picts" (e.g., McDonald's golden arches) will replace words. Holography will permit humans to communicate using symbols instead of words. English will evolve into a pictographic language.

Given these possibilities, the Sixth Judicial Circuit could take any of myriad paths into the 21st century. The question is, what path do the professionals and staff of the court *want* to take? The workshop exercises that follow will encourage creative and thoughtful planning for the sixth circuit's preferred future.



*Oregon State Courts**

Oregon's Court System

Oregon's judicial branch has grown immensely since 1859 and the early days of circuit courts. In 1981, the Oregon legislature passed legislation that "unified" the state's various courts under the judicial department. This action addressed a handful of difficulties. For example, court procedures differed throughout the state, court data management varied from jurisdiction to jurisdiction, judges could negotiate separate proposals with the legislature as they pleased, and counties were struggling unsuccessfully to maintain district and circuit courts out of a diminished tax base. When implemented, this legislation resulted in at least six major changes, each of which enhanced the administration of justice in Oregon.

First, court rules and regulations for the state as a whole are now reviewed and established by the chief justice. This means that the rules are uniform for every court in the state, which makes negotiating the judicial system easier for both lawyers and clients. In addition, the chief justice is the single liaison between the judicial branch and the legislature: the judicial branch can communicate with legislators as a united front. Second, the judicial branch now submits to the legislature a single budget for court needs throughout the state, rather than competing against itself across local jurisdictions. Third, the 1981 legislation included a provision to fund district and circuit courts out of the general fund, greatly easing the strain on the counties.

The change also aided court management immensely. A standardized, statewide data network for judicial record-keeping and caseload management was implemented in 1989, the Oregon Judicial Information Network (OJIN). Standardizing judicial computer services enhances the flow of information and cases through the system. Court employees throughout the state now all work under the same conditions as far as qualifications, salaries, benefits, vacation, retirement, and daily schedules. Finally, although the state

* The material in this section was excerpted from State Court Administrator (Gernant, D., author), *The Courts of Oregon* (1987), from data supplied by the Oregon judicial department, and from discussions with the chief justice and the state court administrator, February 1992.

court administrator's position had existed since 1971, unification of the judicial branch made the position absolutely critical. Coordination of the unified system now rests with the court administrator's staff, who supply the information and draft the plans, budgets, personnel procedures, and programs to the chief justice to keep the system running smoothly.

The Courts Today

The Oregon courts include two sets of trial courts, two appeals courts, and one specialty court. The specialty court, Tax Court, has only one judge and is a statewide court of general jurisdiction. The limited jurisdiction trial courts, the *district courts*, hear civil cases involving $10,000 or less, and misdemeanors—cases where punishment is less than a year in jail or $3,000. Oregon has 61 district judges in 28 counties. In addition, a number of the counties have *justice courts*, which have some of the same powers granted district courts, and many cities have *municipal courts*, which primarily settle traffic violations. All civil cases involving amounts in excess of $10,000, and all felony (possible punishment exceeds one year) trials are heard in *circuit courts*. Oregon has 89 circuit judges.

The first level of appeal for both the district and the circuit courts is Oregon's *Court of Appeals*. Any losing party may appeal a case to this court. Created by the legislature in 1969, it is currently known nationwide for holding the appeals court record in annual case decisions per judge. It consists of nine judges and a chief judge; cases are heard by "departments" of three judges. Finally, the Oregon Supreme Court represents the final level of appeal in the state. Parties may only request that the supreme court review a case; review is not automatic. The seven supreme court justices hear most cases en banc, with all justices present.

Oregon's judges are all chosen by nonpartisan election; they hold their office for six years. They may be removed from office by recall of the people or by order of the supreme court. In 1968 the legislature set up the Judicial Fitness Commission to investigate complaints against judges and to make recommendations to the supreme court on possible removal, suspension, or censure.

Although the legislation unifying the state courts was passed in 1981, the first statewide court budget began with the 1983 biennium. In 1983, the budget for the Judicial Department was $160 million. At that time, the court system had 153 judges and 1,172 employees. By 1991, the budget had increased by 42.5 percent, to $228 million. The number of judges had increased by just over 11 percent, to 170, and the number of employees had increased by less than 10 percent, to 1,274.

Looking just at the caseload data from 1988 through 1991, total cases filed in the district courts increased by 4.8 percent—but number of cases disposed increased by almost double that, 8.5 percent. In the circuit courts, total cases filed increased by 17 percent in 1991 over 1988—but total number disposed increased by 23.9 percent. In 1991, the district courts averaged about 8,015 cases disposed per judicial position; for the circuit courts, that figure was about 1,414.

The Oregon state courts are processing more cases than ever before—but they are processing them faster.

In terms of kinds of cases, the same four-year period saw an almost 100 percent increase in the number of violations heard by district courts, about a 16 percent increase in the number of misdemeanors, a slight drop in infractions, and over 25 percent decrease in the number of felonies. Civil and small claims cases both increased by about 10 percent. In the circuit courts, filings of domestic and civil cases increased by 26 percent and 23 percent, respectively, with probate caseloads up about 20 percent. Offense and mental health case filings more or less held steady from 1988 through 1991.

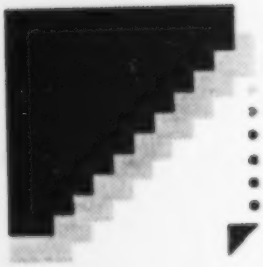
Challenges Facing the Oregon State Courts

Recently, some Oregon court staff gathered for a briefing on the vision process were asked what they thought were the critical challenges or trends that would most affect the courts in the next 30 years. Five said budget; three said technology; and honorable mention was given to several other issues: changes in the educational system; alternative dispute resolution; population increase; changes in the cultures represented in communities; economic woes; access to justice; popular dissatisfaction with the courts; and judicial leadership in court management. Not all of these are negative; some simply represent a different outlook for the future, not necessarily a bad one.

Yet the primary challenge seems to be financial survival: in fiscal terms, budget decisions are reaching the point where Oregonians must decide whether they want courts at all. Ballot measure #5 limited taxes, reducing real funds, and additionally skimmed more than $1 billion off the state's $5.2 billion revenues for education. More and more funds are going into law enforcement, and less and less into the judicial system.

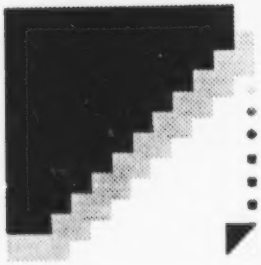
This is contributing to a second problem: declining sense of self-worth. Morale in Oregon's judiciary is low and sinking further. The state's judges currently rank only 46th nationwide in salary, and the last legislative session did not even pass a cost of living increase. Yet these are the same professionals who rank at the top nationwide in number of cases processed. With steadily increasing caseloads, continued pressure to increase processing efficiency, and lack of commensurate reward, it is less and less a joy to administer justice.

Finally, it is difficult to rise to such challenges when the destination is unknown. The judicial department needs to recognize that it has a destiny, define it, and take ownership—because if the courts do not, someone else will. Creating the vision of a preferred future for the Oregon state courts will not only aid in establishing long-term goals throughout the judicial system, it will help in more immediate tasks of setting priorities for programs and budgets. But the best effect of a compelling vision is the way it reinvigorates people's capacity to overcome challenges. The Oregon state courts can create their own future, and the activities that follow are a first step.



Appendix D

Inspiring/Irreverent Quotes



Inspiring/Irreverent Quotes

On Dreams, Visions, Goals, and Imagination

There is nothing like a dream to create the future.

—VICTOR HUGO

It may be that those who do most, dream most.

—STEPHEN LEACOCK

Some men see things as they are and say "Why?"
I dream things that never were and say "Why not?"

—GEORGE BERNARD SHAW

Vision is the art of seeing the invisible.

—JONATHAN SWIFT

[In reply to Alice's comment about her own inability to believe impossible things:] "I daresay you haven't had much practice," said the queen. "When I was your age,
I always did it for half an hour a day. Why, sometimes I've believed as many as six impossible things before breakfast."

—LEWIS CARROLL

Come, my friends,
'Tis not too late to seek a newer world.
Push off, and sitting well in order smite
The sounding furrows; for my purpose holds
To sail beyond the sunset, and the baths
Of all the western stars, until I die. . . .
Though much is taken, much abides; and though
We are not now that strength which in old days
Moved earth and heaven, that which we are, we are —
One equal temper of heroic hearts,
Made weak by time and fate, but strong in will
To strive, to seek, to find, and not to yield.

—ALFRED LORD TENNYSON

Enough, if something from our hands have power
To live, and act, and serve the future hour;
And if, as toward the silent tomb we go,
Through love, through hope, and faith's transcendent dower,
We feel that we are greater than we know.

—WILLIAM WORDSWORTH

The beginning of creation. You imagine what you desire;
you will what you imagine; and at last you create what you will.

—GEORGE BERNARD SHAW

On Contingency Planning

Whenever I face a choice between two evils,
I always pick the one I've never experienced before.

—MAE WEST

On Genius

The ability to act wisely without precedent
—the power to do the right thing for the first time.

—ELBERT HUBBARD

To be able to see and feel what will come to pass ten years hence.

—VLADIMIR JABOTINSKY

Little more than the faculty of perceiving in an unhabitual way.

—WILLIAM JAMES

Every creative act involves . . . a new innocence of perception, liberated from the cataract of accepted belief.

—ARTHUR KOESTLER

A promontory jutting out into the future.

—VICTOR HUGO

Originality, the opening of new frontiers.

—ARTHUR KOESTLER

That energy which collects, combines, amplifies, and animates.

—SAMUEL JOHNSON

On Leadership/Great Women and Men

Not those who have fewer passions and greater virtue than ordinary men, but those who have the greater aims.

—LA ROCHEFOUCAULD

The ability to recognize a problem before it becomes an emergency.

—ARNOLD H. GLASGOW

The leader has to be practical and a realist, yet must talk the language of the visionary and the idealist.

—ERIC HOFFER

[The leader] kindles the vision of a breath-taking future so as to justify the sacrifice of a transitory present. He stages a world of make-believe so indispensable for the realization of self-sacrifice and united action.

—ERIC HOFFER

A man who has the ability to get other people to do
what they don't want to do and like it.

—HARRY TRUMAN

Show me and I'll forget. Tell me and I won't remember.
Involve me and I'll understand.

— NATIVE AMERICAN PROVERB

They can't hit 'em if you don't throw 'em.

—LEFTY GOMEZ

On the Future

It is the duty of the future to be dangerous.

—ALFRED NORTH WHITEHEAD

The trouble with our time is that the future is not what it used to be.

—PAUL VALERY

We have seen the past and it doesn't work.

—DWIGHT DAVID EISENHOWER

If we open a quarrel between the past and the present,
we shall find that we have lost the future.

—WINSTON CHURCHILL

Conservatism discards Prescription, shrinks from Principle,
disavows Progress; having rejected all respect for antiquity, it offers no
redress for the present, and makes no preparation for the future.

—BENJAMIN DISRAELI

Nothing has any sense for a man except insofar as it is directed toward the future.

—JOSE ORTEGA Y GASSET

The future is hidden even from those who make it.

—ANATOLE FRANCE

I believe that all that is possible is striving to come into being.

—ANDRE GIDE

Today's extravagance becomes tomorrow's necessity.

—GLORIA WASSERMAN

Today is the tomorrow you worried about yesterday—and now you know why.

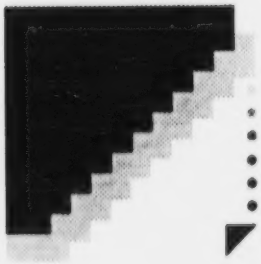
—MICHAEL GILLETTE, Oregon Courts

Any useful statement about the future should appear outrageous.

—JAMES DATOR

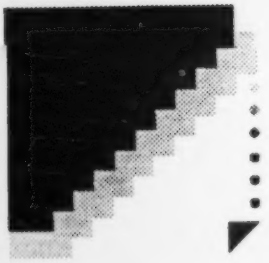
From this point on, there is a growing realization that
man's future may be literally what he chooses to make it, and that
the ranges of choice and the degree of conscious control
which he may exercise in determining his future are unprecedented.
. . . The outcome of the futures chosen will depend in turn on
our ability to conceptualize them in humanly desirable terms . . .
There is, in this sense, no future other than as we will it to be.

—JOHN MCHALE



Appendix E

Additional References/Resources



Additional References/Resources

Building Scenarios and Visions; Leadership

KANTER, ROSABETH MOSS. *The Change Masters.* New York: Simon and Schuster, 1983.

KOUZES, JAMES M., and BARRY Z. POSNER. *The Leadership Challenge: How to Get Extraordinary Things Done in Organizations.* San Francisco: Jossey-Bass Publishers, 1991. 362 pp.

Note particularly Part Three, which includes chapters on envisioning the future and enlisting others in building the vision.

NANUS, BERT. *The Leade's Edge: The Seven Keys to Leadership in a Turbulent World.* Chicago: Contemporary Books, 1989. 224 pp.

The codification and application of insights from his earlier work, *Leaders*; clear and straightforward in style; brief, it summarizes the need for future-oriented thinking and suggests seven "megaskills" for leadership; Chapter Five, "Futures-Creative Leadership," and Chapter Eight, "The Leader's Edge," are particularly helpful. The appendix offers a quick workshop technique for environmental scanning, "Identifying Emerging Change Issues Critical to Strategic Planning," which is quite useful.

———— *Leaders: The Strategies for Taking Charge.* New York: Harper & Row, 1985. 244 pp.

An interesting and fairly quick read that basically summarizes the case studies gathered as part of a project on leadership; it is organized as an elucidation of four leadership strategies. See especially "Strategy I: Attention Through Vision."

PETERS, TOM. *Thriving on Chaos: Handbook for a Management Revolution.* New York: Harper & Row, 1987. 708 pp. See also Peters and Robert H. Waterman, Jr., *In Search of Excellence,* and Peters and Nancy Austin, *A Passion for Excellence.*

Overall, a fun read because of his breezy writing style and the many interesting cases he cites; written as a "how-to" manual, Chapter Five, "Learning to Love Change," highlights the need for organizational flexibility, adaptiveness, and the critical role vision plays. (His newest book, undoubtedly another gem, is *Liberation Management: Necessary Disorganization for the Nanosecond Nineties.* New York: A. A. Knopf, 1992.)

SCHWARTZ, PETER. *The Art of the Long View: The Path to Strategic Insight for Yourself and Your Company.* New York: Doubleday, 1991.

An excellent and brief work on the utility of scenario building in organizational planning, including some pointers on devising a scenario-building process within your own organization. Very interesting examples: Schwartz was formerly in the long-range planning division of Shell Oil.

SENGE, PETER M. *The Fifth Discipline: The Art and Practice of the Learning Organization.* New York: Doubleday, 1990.

Chapter Eleven, "Shared Vision" is possibly the best statement yet written on the usefulness of vision for organizations; the rest of the book is equally good.

WATERMAN, ROBERT H., JR. *The Renewal Factor.* New York: Bantam Books, 1987.

Group Process and Futures Workshops

DOYLE, MICHAEL, and DAVID STRAUS. *How to Make Meetings Work.* New York: Jove Books, 1982.

A classic in the field of facilitation; make your boss read it.

JUNGK, ROBERT, and NORBERT MULLERT. *Future Workshops: How to Create Desirable Futures.* London: Institute for Social Inventions, 1987.

The guerilla handbook for community future workshops, written by the father of future workshops.

Court Planning and Futures Thinking

The following list includes the published reports of state judicial futures commissions as of February 1993. Additional commissions are currently at work, and their reports will be available as the commissions complete their work. Published reports may be obtained from the state court administrative offices or may be borrowed from the National Center for State Courts' Library.

Arizona
Report of the Commission on the Courts, 1989, Arizona Commission on the Courts, 129 pp.

Colorado
Colorado Courts in the Twenty-first Century: The Final Report from Vision 2020: Colorado Courts in the Future, April 1, 1992, 99 pp.

Georgia
Justice in the Next Millennium: Report of the Court Futures Vanguard, February 1993, 213 pp.

Hawaii
Comprehensive Planning in the Hawaii Judiciary, 1979, Judiciary, State of Hawaii, 207 pp.; "Preliminary Report of the 1991 Judicial Foresight Congress," 10 pp.

Maine
New Dimensions for Justice: Report of the Commission to Study the Future of Maine's Courts, February 1993, 127 pp.

Massachusetts
Reinventing Justice 2022: Report of the Chief Justice's Commission on the Future of the Courts, May 1992, 118 pp.

Michigan
Michigan's Courts in the 21st Century: A Report to the Legislature, Governor, and Supreme Court, December 1990, 79 pp.

New Hampshire
As New Hampshire Approaches the Twenty-first Century: The Report of the New Hampshire Supreme Court Long-range Planning Task Force, July 1990, 29 pp., plus 6 appendices.

San Antonio Futures Conference
Alternative Futures for the State Courts of 2020, 206 pp.; *Executive Summary*, 20 pp.

Texas
Into the Twenty-first Century: Citizen's Commission on the Texas Judicial System: Report and Recommendations, January 1993, 56 pp.

Utah
Final Report: Commission on Justice in the Twenty-first Century, "Doing Utah Justice," December, 1991, 61 pp., plus 11 appendices.

Virginia
Courts in Transition: The Report of the Commission on the Future of Virginia's Judicial System, May 1989, 84 pp.; *Executive Summary*, 31 pp.

Other Sources

An Approach to Long Range Strategic Planning for the Courts
Prepared by John A. Martin, Center for Public Policy Studies
1410 Grant Street, Denver, CO 80203
Prepared for the State Justice Institute

This report describes a comprehensive, step-by-step approach to strategic planning for state trial courts; it assumes a vision as a cornerstone of that process.

An Approach to Long Range Strategic Planning for the Courts: Training Guide
Prepared by Brenda Wagenknecht-Ivy, Center for Public Policy Studies
1410 Grant Street, Denver, CO 80203
Prepared for the State Justice Institute

This training guide presents a comprehensive training or technical assistance curriculum on long-range strategic planning for trial courts.

The Court Futures Manual: A History of Court Futures Research in Colorado
Colorado Judicial Department, June 1992.

Developed as part of "Vision 2020: Colorado Courts of the Future," it is intended as an administrative guidebook for other court jurisdictions interested in conducting futures research.

"Court Futures Research: The First Step in Long-range Strategic Planning"
Craig Boersema, *State Court Journal*, Vol. 17, No. 1, Winter 1993

Based on a two-day colloquium attended by 19 individuals who had been or were engaged in futures planning in the courts, this article addresses two questions: "What is futures planning?" and "Is futures worthwhile?" It also proposes the guidelines for other jurisdictions wishing to establish a futures-planning capability.

Scenario Practice: Science Fiction as Futures Thinking

The following list is of necessity very abbreviated. One novel has been chosen to represent each of six archetypal futures scenarios, although many others might serve as well. The "Miscellany" list was suggested by various workshop participants who thought these books and stories particularly useful. Generally, an acquaintance with science fiction, either from movies, television, radio, books, or comics, enhances anybody's ability to think differently about possible futures.

Scenario: *Continued Growth*

BRUNNER, JOHN. *Stand on Zanzibar.* Garden City, NY: Doubleday, 1968.

Scenario: *Collapse*

MILLER, WALTER JR. *A Canticle for Liebowitz.* New York: Bantam Books, 1976.

Scenario: *Conserver/Green*

KELLOGG, MARJORIE BRADLEY. *Harmony.* New York: Penguin Books USA, 1991.

Scenario: *Socialist*

LE GUIN, URSULA K. *The Dispossessed: An Ambiguous Utopia.* New York: Harper & Row, 1974.

Scenario: *Spiritual Transformation*

BRYANT, DOROTHY. *The Kin of Ata Are Waiting for You.* Berkeley, CA: Moon Books/ Random House, 1971.

Scenario: *High Technology Transformation*

DELANY, SAMUEL R. *Babel-17.* London: Gollancz, 1967.

Miscellany: Books

BRIN, DAVID. *Earth.* New York: Bantam Books, 1990.

GIBSON, WILLIAM. *Mona Lisa Overdrive.* New York: Bantam Books, 1988.

HOGAN, JAMES P. *Voyage from Yesteryear.* New York: Ballantine Books, 1982.

MCKINNEY, JACK. *Free Radicals* (Book Three of *The Black Hole Travel Agency* series). New York: Ballantine Books, 1992.

NIVEN, LARRY, and STEVEN BARNES. *The Barsoom Project.* New York: Ace Books, 1989.

PIERCY, MARGE. *Woman on the Edge of Time.* New York: A.A. Knopf, 1976.

SEVERANCE, CAROL. *Reefsong.* New York: Ballantine Books, 1991.

STERLING, BRUCE. *Islands in the Net.* New York: Ace Books, 1988.

TEPPER, SHERI S. *The Gate to Women's Country.* New York: Bantam Books, 1989.

VARNEY, JOHN. *Titan.* New York: Ace Books, 1987.

Miscellany: Short Stories

BALLARD, J.G. *Vermilion Sands.* New York: Carroll & Graf Publishers, Inc., 1988.

GIBSON, WILLIAM. *Burning Chrome.* New York: Ace Books, 1987.

VARNEY, JOHN. *Blue Champagne.* New York: Ace Books, 1987.

ZELAZNY, ROGER. *The Doors of His Face, the Lamps of His Mouth, and Other Stories.* London: Faber and Faber, 1973.

Video Resources

Apple Computers. "The Knowledge Navigator." A copy may be borrowed from Dr. Franklin Zweig, Center for Health Policy Research, George Washington University, 2021 K Street NW, Suite 800, Washington DC 20052. Telephone: (202) 296-6922.

BARKER, JOEL. "Visions." A copy may be borrowed from the National Center for State Courts. Contact Ms. Peggy Rogers, National Center for State Courts, 300 Newport Avenue, Williamsburg VA 23187-8798. Telephone: (804) 253-2000.

———— "Paradigms." Available for rent or sale directly from Joel Barker. Telephone: (800) 328-3789 or (612) 228-0103. Facsimile: (612) 290-0949.

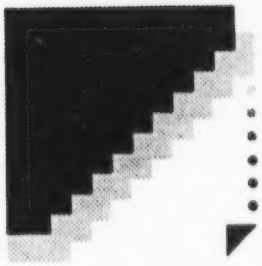
Hawaii Research Center for Futures Studies. "Culturally Appropriate Dispute Resolution." Videotape and supporting written materials. Available while copies last from Prof. James Dator, Hawaii Research Center for Futures Studies, 720 Porteus Hall, 2424 Maile Way, Honolulu, Hawaii 96822. Telephone: (808) 956-2888. Facsimile: (808) 956-2884.

Hewlett-Packard. "1995." Item S-1081, available free of charge by calling (415) 875-4230.

Arthur Anderson Co. and Alameda (CA) Unified School District. "Beyond the Box." Available for cost of mailing from Superintendent of Alameda Unified School District, 2200 Central Avenue, Alameda, CA 94501. Telephone: (510) 748-4060.

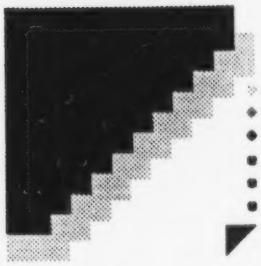
National Center for State Courts, Institute for Alternative Futures, Hawaii Research Center for Futures Studies. "Envisioning Justice: Reinventing Courts for the 21st Century." Videotape and video use guide available for loan or purchase from the National Center for State Courts, 300 Newport Avenue, Williamsburg, VA 23187-8798. Telephone: (804) 253-2000. Facsimile: (804) 220-0449.

Pacific Telesis. "Firstborn." Available free of charge. Write Pacific Telesis, 130 Kearny Street, Room 3301, San Francisco CA 94108, or call Pacific Telesis's Washington, DC, offices at (202) 383-6439.



Appendix F

Vision Process Facilitators from the Courts



Vision Process Facilitators from the Courts

Ms. Katherine Ainsworth
Court Futures Commission
142 Federal Street, Room 317
Portland, ME 04101
phone # (207) 822-4164
fax # (207) 822-4136

Rosemary Anton, M.A., J.D.
4204 Embassy Park Drive, NW
Washington, DC 20016-3601
phone # (202) 686-4172

Hon. Dorothy Toth Beasley
Court of Appeals of Georgia
402 State Judicial Building
Atlanta, GA 30334
phone # (404) 656-3457
fax # (404) 651-6187

Hon. Rosalyn Bell
Judge, Special Court of Appeals
Judicial Center, Suite 301
Rockville, MD 20850
phone # (301) 217-7210
fax # (301) 217-7732

Mr. Clem Bezold
Institute for Alternative Futures
108 North Alfred Street
Alexandria, VA 22314
phone (703) 684-5880
fax # (703) 684-0640

Ms. Andrea Biren
Planner, California Judicial Council
Administrative Office of the Courts
303 Second Street, South Tower
San Francisco, CA 94107
phone # (415) 396-9131
fax # (415) 396-9358

Mr. Jeff Boyce
Director of Planning
Office of the State Court Administrator
1206 South Quince Street
Olympia, WA 98504
phone # (206) 753-3365
fax # (206) 664-0945

Hon. Judith Chirlin
Judge, Los Angeles Superior Court
111 North Hill Street, Dept. 33
Los Angeles, CA 90012
phone # (213) 974-1234
fax # (213) 617-7176

Ms. Diana Clemons
Education Services Coordinator
Administrative Office of the Courts
100 Millcreek Park
Frankfort, KY 40601
phone # (502) 564-2350
fax # (502) 695-1759

Hon. John Daffron, Jr.
Judge, Chesterfield County Courthouse
10100 Ironbridge Road
Post Office Box 125
Chesterfield, VA 23832
phone # 748-1335
fax # 796-5625

Ms. Daina Farthing-Capowich
State Justice Institute
1650 King St., Ste. 600
Alexandria, VA 22314
phone # (703) 684-6100
fax # (703) 684-7618

Mr. John D. Ferry, Jr.
Deputy State Court Administrator
611 West Ottawa Street
Post Office Box 30048
Lansing, MI 48909
phone # (517) 373-2222
fax # (517) 373-2112

Hon. Helen E. Freedman
Justice, New York State Supreme Court
60 Centre Street
New York, NY 10007
phone # (212) 374-8387
fax # (212) 374-3326

Hon. Abraham M. Gafni
Judge, Court of Common Pleas
1601 Market Street, Suite 10B
Philadelphia, PA 19103
phone # (215) 686-2566
fax # (215) 666-7382

Joan Gibson, Ph.D.
Senior Program Director
Center for Health Law and Ethics
Institute of Public law
1117 Stanford Drive, N.E.
Albuquerque, NM 87131
phone # (505) 277-8166
fax # (505) 277-7064

Hon. W. Michael Gillette
Associate Justice
Oregon Supreme Court
Supreme Court Building
1163 State
Salem, OR 97310
phone # (503) 378-6008
fax # (503) 373-7536

Mr. Gordon Griller
Court Administrator
Maricopa County Superior Court
201 West Jefferson
Phoenix, AZ 85003
phone # (602) 506-3204
fax # (602) 261-7867

Mr. Daniel J. Hall
Director, Planning and Analysis
Office of the State Court Administrator
Colorado Judicial Department
1301 Pennsylvania Street, Suite 300
Denver, CO 80203-2416
phone # (303) 837-3690
fax # (303) 831-1814

Hon. Andrew J. Hairston
City Court of Atlanta
104 Trinity Avenue, SW
Atlanta, GA 30335
phone # (404) 658-6919
fax # (404) 658-7474

Professor M. Kay Harris
Associate Director
Department of Criminal Justice
Temple University
548 Gladfelter Hall
Philadelphia, PA 19122
phone # (215) 787-5167
fax # (215) 627-7810

Hon. David A. Horowitz
Judge, Superior Court
111 North Hill Street
Department 30
Los Angeles, CA 90012
phone # (213) 974-5635
fax # (213) 617-7176

Hon. Raymond D. Jones
Justice
Colorado Court of Appeals
Colorado State Judicial Building
2 East 14th Avenue, Suite 350
Denver, CO 80203
phone # (303) 837-3745
fax # (303) 837-3702

Hon. John J. Maddux, Jr.
Judge, Circuit Court
228 East Broad, Room 206
Cookeville, TN 38501
phone # (615) 526-6692
fax # (615) 525-3597

Rheb Harbison
Executive Assistant to the State Courts Administrator
Florida State Court System
Supreme Court Bldg., 500 South Duval St.
Tallahassee, FL 32399-1900
phone # (904) 922-5082
fax # (904) 488-3744

Mr. Bill Hewitt
National Center for State Courts
300 Newport Ave.
Williamsburg, VA 23187-8798
phone # (804) 253-2000
fax # (804) 220-0449

Ms. Peggy Horvath
Deputy State Courts Administrator
Florida State Court System
Supreme Court Building
500 South Duval Street
Tallahassee, FL 32399-1900
phone # (904) 922-5082
fax # (904) 488-3744

Mr. Peter Kiefer
Director, Trial Court Programs Division
Office of the State Court Administrator
Supreme Court Building
1163 State Street
Salem, OR 97310
phone # (503) 378-6008
fax # (503) 373-7536

Mr. John Martin
Center for Public Policy Studies
1410 Grant Street
Denver, CO 80203
phone # (303) 863-0900
fax # (303) 839-1849

Ms. Cheryl May
Director
Policy Planning and Public Information
Utah Administrative Office of the Courts
230 South 500 East, Suite 300
Salt Lake City, UT 84105
phone # 801) 578-3826
fax # (801) 578-3843

Ms. Kathy L. Mays
Director of Judicial Planning
Supreme Court of Virginia
100 North Ninth Street, Third Floor
Richmond, VA 23219
phone # (786)-7595
fax # 786-4542

Mr. Ted McFetridge
Deputy Court Administrator
Eighth Judicial Circuit
Alachua County Courthouse
Gainesville, FL 32601
phone # (904) 374-3648
fax # (904) 374-5238

Ms. Joan McIntosh
2625 Alcatraz, Suite 201,
Berkeley, CA 94705
phone # (510) 653-1520

Mr. John Meeks
Staff Attorney
Judicial Education Department
Florida State Court System
Supreme Court Building
500 South Duval Street
Tallahassee, FL 32399-1900
phone # (904) 922-5082
fax # (904) 488-3744

Ms. Beatrice P. Monahan
Senior Planning Analyst
Supreme Court of Virginia
100 North Ninth Street, Third Floor
Richmond, VA 23219
phone # (786)-7588
fax # 786-4542

Mr. Joseph S. Olexa
Civil Division Manager
Fourth Judicial District, Multnomah County
1021 SW Fourth Avenue, Room 211
Portland, OR 97204
phone # (503) 248-3698
fax # (503) 248-3698

Mr. David Price
Center for Public Policy Studies
1410 Grant Street
Denver, CO 80203
phone # (303) 863-0900
fax # (303) 839-1849

Hon. Elzie S. Sanders
Chief Judge, Eighth Judicial Circuit
Alachua County Courthouse
Gainesville, FL 32601
phone # (904) 374-3606
fax # (904) 374-5238

Mr. Steven Stentz
Research Specialist
Office of the Administrator for the Court
1206 South Quince Street
Olympia, WA 98504
phone # (206) 753-3365
fax # (206) 357-2127

Dr. LaVerne Williamson
Workshop Facilitator
Georgia Court Futures Project
315 Ashton Drive
Athens, GA 30606
phone # (706) 354-0024
fax # (706) 542-5556

Ms. Wendy Schultz
Hawaii Research Center for Future Studies
University of Hawaii at Manoaa
2424 Marle Way
Honolulu, HI 96822
phone # (808) 956-2909 or 956-7469
fax # (808) 956-2884

Mr. A. John Voelker
Senior Policy Analyst
Office of the Director of State Courts
110 East Main Street, Suite 315
Madison, WI 53703-3356
phone # (608) 266-8861
fax # (608) 267-0911

Hawaii Research Center for Futures Studies

BEST COPY AVAILABLE